ARE FEDERAL PROSECUTORS LOCATED WHERE WE NEED THEM?

HEARING

BEFORE THE

INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 14, 1993

Printed for the use of the Committee on Government Operations

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CONTENTS

APPENDIXES

ARE FEDERAL PROSECUTORS LOCATED WHERE WE NEED THEM?

THURSDAY, OCTOBER 14, 1993

HOUSE OF REPRESENTATIVES,
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:30 a.m., in room 2247, Rayburn House Office Building, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit, Major R. Owens, Bart Stupak, Craig Thomas, Ileana Ros-Lehtinen, and Stephen Horn.

Also present: Kathryn J. Seddon, professional staff member; Aurora Ogg, clerk; and Diane M. Major, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN CONDIT

Mr. CONDIT. Why don't we begin the meeting? Our colleagues will be joining us a little bit later. It has been pointed out to me this is sort of an odd time to hold a hearing. We have got to notify them that we are meeting right now, but we will begin the hearing.

The Subcommittee on Information, Justice, Transportation, and Agriculture will come to order. Today we ask the question, are Federal prosecutors located where we need them? The Department of Justice reports that in 1992 there were 4,291 attorneys working in 94 United States attorney offices throughout the country, including Puerto Rico, the Virgin Islands, and Guam. Critics have said that these staffs were not well-distributed, and if that is the case, Federal law enforcement in some areas of the country will suffer.

The decision to bring, and sometimes more importantly not to prosecute cases determines how well Federal law is enforced. Local communities are directly affected by these prosecutors' decisions. For example, last summer a witness from Los Angeles County testified regarding his frustration over the small number of aliens convicted of violations of State and local law who are prosecuted for reentering the United States illegally.

Another example is the number of prosecutions for bank and thrift fraud. During the year 1991, the U.S. attorney in Los Angeles turned down 98 percent of the nonmajor and 46 percent of the major bank and thrift fraud cases referred by the FBI. This is despite the fact that the prosecution of financial fraud was a national prosecution priority and American taxpayers are upset about having to pay the cost of thrift bailout.

Our witnesses today include representatives of the Transactional Records Access Clearinghouse who have conducted an analysis of staffing patterns based on populations of U.S. attorneys' districts. Among the districts they have concluded to be comparatively understaffed is the central district of California which includes Los Angeles. Perhaps that explains why prosecutors are turning down important cases.

We will also hear from the Department of Justice who will explain how it makes decisions regarding the deployment of prosecutors and from a representative of the Federal courts who will explain how they determine the number of Federal judges which are needed.

A central theme of the Vice President's National Performance Review is that we must make government more effective and efficient and responsive to the needs of the people. Today we hope to raise questions about staffing decisions which in the long run may stimulate improvement and help make prosecutors more responsive to the needs of the people.

No discussion of staffing is complete without also asking the question whether or not the U.S. attorneys are doing what they should be doing. I would just like to note that the General Accounting Office is currently conducting a study which will help answer these important questions. We will continue our review of the U.S. attorney's office when their work is completed.

[The opening statement of Mr. Condit follows:]

ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

Information, Justice, Transportation, and Agriculture
Subcommittee
of the
Committee on Government Operations
B-349-C Rayburn House Office Building
Washington, DC 20515

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Opening Statement of the Honorable Gary A. Condit
Hearing--Are Federal Prosecutors Located Where We Need Them?
October 14, 1993, 11:30 a.m.

Today, we ask the question, are Federal prosecutors located where we need them?

In Fiscal Year 1992, the Department of Justice reported that there were 4,291 attorneys working in ninety-four U.S. Attorney Offices throughout the country, including Puerto Rico, the Virgin Islands and Guam. These prosecutors are vital to effective law enforcement. Their decisions to bring, or not to prosecute cases, determine how effectively Federal law is enforced in the areas which they serve.

Critics suggest that these staff are not well distributed. If the criticism is valid, Federal law enforcement in some areas of the country will be adversely affected.

Local communities are directly affected by the prosecutors' decisions. I have received complaints from officials in California that U.S. Attorneys are not prosecuting cases which are important to the community. Some U.S. Attorney Offices are not prosecuting bank and thrift fraud cases below a $100,000 threshold. During Fiscal Year 1991, the U.S. Attorney in Los Angeles declined 98% of the "non-major" and 46% of the "major" thrift cases referred by the Federal Bureau of Investigation. These high rates of declinations occurred despite the fact that financial fraud is a national prosecution priority and the thrift bailout has been very costly to the American taxpayer. Last summer, a witness from Los Angeles County testified regarding his frustration over the small number of aliens previously convicted of state and local law violations who are prosecuted by the United States for illegal re-entry.

The failure of U.S. Attorneys to pursue such cases may be due in part to inadequate of staff. Today's witnesses from Transactional Records Clearinghouse have conducted an analysis comparing staffing patterns of the U.S. Attorney Offices with the populations of their geographic areas, based on the 1990 census. The data suggests that the Central District of California, which includes Los Angeles, is relatively understaffed. I will be interested in hearing from the Department of Justice the reasons the Department has made certain staffing decisions.

A major theme of the Vice President's National Performance Review is that we must change the way that government works to make it more effective, efficient and responsive to the needs of the people. The new Attorney General recognizes the importance of responding to the needs of local communities. TRAC urges us to rethink

(more)

the staffing of the Offices of the U.S. Attorneys. Today I am hopeful that we will begin asking questions about staffing decisions which in turn will stimulate improvements in the deployment of federal prosecutors to insure that the federal government meets the needs of the people.

Before we begin, I would like to note that a discussion of staffing is incomplete without consideration of the question of whether or not the U.S. Attorneys are doing the job that needs to be done. The General Accounting Office (GAO) is currently conducting a study which will help answer this important question. We will continue our review when GAO's work is completed.

Mr. CONDIT. Today we have two panels. Are we going to combine these panels and have everybody up? Why don't we ask Ms. Long to come up and Mr. Burnham to come up. Why don't we just do this since we have two? I thought we just had one on that panel, we have two and we will just do it that way. Why don't you folks come up.

The committee has a policy of swearing all witnesses in. If you will remain standing, we will swear you in.

[Witnesses sworn.]

Mr. CONDIT. Ms. Long, do you want to begin? You are both the codirectors of the Transactional Records Access Clearinghouse, Washington, DC, and New York.

STATEMENT OF SUSAN B. LONG AND DAVID B. BURNHAM, CODIRECTORS, TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, SYRACUSE, NY, AND WASHINGTON, DC

Ms. LONG. Thank you. Mr. Chairman and members of the subcommittee, thank you for requesting our testimony. The fair and efficient allocation of Federal law enforcement resources is a matter of central concern to every American. We very much appreciate the opportunity to present to you the research findings of the Transactional Records Access Clearinghouse about this key Justice Department process.

We, Susan Long and David Burnham, are the codirectors of TRAC, a unique organization that obtains computerized enforcement and regulatory data under the Freedom of Information Act and organizes this information in ways that allow congressional committees, scholars, business organizations, public interest groups, and the media to better understand how the agencies actually are functioning.

TRAC is part of Syracuse University where both of us are faculty members.

Mr. BURNHAM. A key responsibility of all managers is to marshal their resources in the most effective possible way. That is true whether the manager in question is the director of a big hospital or the superintendent of a public school. Another overseer who is responsible for directing a large and complicated organization, of course, is the Attorney General of the United States. With an overall budget of $10 billion, worldwide operations conducted by 30 different semiautonomous bureaus, divisions, offices, and boards, the task of deploying the Department's 100,000 employees in a rational and effective way is extremely difficult.

No responsible commander, however, including the Attorney General, can choose to ignore an essential responsibility simply because the task is very difficult.

Our testimony today examines how recent Attorney Generals, to a certain extent under the mandate of specific congressional laws, have deployed what well may be the single most important component of their work force, the almost 4,000 Federal prosecutors who today exercise direct control over a substantial proportion of all criminal and civil enforcement actions taken by the Federal Government within the 50 States.

Ms. LONG. The increase in Federal prosecutors during the past 12 years has been phenomenal. Indeed, the number of assistant

U.S. attorneys in the Justice Department, as shown by the first graph [graph 1—all graphs are contained in the prepared statement], increased 10 times faster than the Nation's population as a whole. The moving force behind the recent spurt in the number of Federal prosecutors was Congress' concern about two specific kinds of crime and its decision to bolster Federal enforcement efforts relating to these problems: Financial institution fraud and the distribution of illegal drugs.

How has the overall growth in the number of Federal prosecutors been allocated among the 90 district offices? Given the widely varying size and nature of each district, it is entirely appropriate that the 2,200 new prosecutors brought on board during this period have not been distributed equally among the districts.

Mr. BURNHAM. But on their face do the data suggest that the Justice Department allocation process has fully reflected the priorities laid down by Congress and the guidelines spelled out by the Justice Department's published deployment criteria? Now, we go to the second graph [graph 2].

As you can see, the data show that the six districts experienced the fastest growth in the Federal prosecutors from 1980 to 1992, 300 percent or more after adjusting for population changes were Hawaii, the western district of Michigan, Grand Rapids; the northern district of New York, Syracuse; Rhode Island, the northern district of West Virginia, Wheeling; and Wyoming.

While each of these six districts has many special and important attributes, not one of them springs to mind as either a major financial center or leading drug distribution point, the focus of Congress' interest.

At the other extreme, and this takes us to the next graph [graph 3], are the districts that experienced the slowest growth. These included the central district of California, Los Angeles; the northern district of California, San Francisco; the District of Columbia; the northern district of Illinois; and the southern district of New York, Manhattan; and the suburban counties to its immediate north.

Once again the questions can be asked: Does the comparatively slow growth of Federal prosecutors assigned to these five districts, all of them major financial centers, all of them suffering from high levels of violent crime and the ravages of drugs, fit with the mandates of Congress?

In its most narrowly focused form, considering the national concerns about bank fraud and illegal drugs, does it make sense that from 1980 to 1992 the per capita number of Federal prosecutors in the two fastest growing districts, Wyoming and the northern district of West Virginia, increased 8 times faster than the slowest, San Francisco?

Ms. LONG. So far we have been presenting to you a kind of motion picture that has examined how the Justice Department has deployed the large number of additional assistant U.S. attorneys that Congress decided were needed to deal with the Nation's crime problems over a long period of time from 1980 through 1992.

Now, we want to show you a snapshot of just 1 year. After 12 years of phenomenal growth, how do the districts line up in terms of their staffing? First, let's look at district population size. In 1992 Census Bureau data indicated that the central district of Califor-

nia, Los Angeles, was the most populous district with about 15.7 million people.

At the other extreme was Wyoming with less than half a million. In other words, the population served by the U.S. attorney in Los Angeles was 33 times larger than that of the U.S. attorney out of Cheyenne. Because of this vast difference in population size, it is necessary to find a way to put districts into perspective. Just looking at the hard numbers of Federal prosecutors working in each district is more confusing than enlightening, but when the numbers are turned into valid rates put on a common footing by looking at the number of prosecutors in relation to the population they serve, patterns emerge that can serve as the foundation for constructive inquiry.

One way of examining the Justice Department's deployment of assistant U.S. attorneys in 1992 is to compare the number of prosecutors working in adjoining areas which on their face appear to be quite similar, and if we turn to the next graphic [graph 4], we have a table of districts—Wyoming, South Dakota, North Dakota, Montana, Idaho, Utah—all adjacent in the mountain central part of the United States. Why, for example, should Idaho and Utah have 12 Federal prosecutors per million population, Montana have 13, North Dakota 16, South Dakota 20, when Wyoming has 30 per million?

Similar apparent disparities can be found when looking at neighboring districts in the East. On the next graphic [graph 5] we show Vermont, New Hampshire, and New York north where Syracuse University is located. What were the objective criteria that resulted in the northern district of New York having 8 prosecutors per million people, New Hampshire having 14 per million and Vermont 24?

Mr. BURNHAM. Another perspective of the same question can be gained by restricting one's views to the 12 districts with the largest metropolitan areas, and that is what the next graph [graph 6] is about. What is the justification for the fact that the eastern district of New York, Brooklyn and the rest of Long Island, the northern district of Illinois, Chicago, and the northern district of Texas, Fort Worth/Dallas, all have substantially larger number of prosecutors in relation to population than the eastern district of Michigan, Detroit, and the northern district of California, San Francisco?

As we suggested at the beginning of our statement, we believe the way the Justice Department has deployed its resources, in this case assistant U.S. attorneys, raises very serious questions about the Department's basic management skills while under the control of both Democratic and Republican administrations. But the variations in staffing also have a direct impact on the levels of protection offered by the Federal Government to every citizen in the United States.

To give you a better sense of this particular aspect of the equation, we have extracted the rates for the U.S. attorney's offices in each of your congressional districts. This takes us to the next graph [graph 7].

As you can see, these range from highs of 41 and 30 in the southern district of Florida, Miami, and Wyoming to lows of 8 and 12 in the eastern district of California, Sacramento, of special interest,

the northern district of California, San Francisco, and the middle district of Florida, Tampa. The per capita level of prosecutors in the central district of California, Los Angeles, also was quite low.

We fully understand that Congress from time to time has approved laws which effectively mandated increases for certain sections of the United States. We also believe, however, that the staffing patterns uncovered by our research indicate the Justice Department managers, going back for many, many years, have failed to follow a logical, consistent, and understandable procedure when it came to divvying up Federal prosecutors.

The next graph [graph 8] will show you the number of attorneys per million population in just 1992. I want to also point out that at the back of the graphs there are tables that give you the actual numbers for each district in the country, as well as tables with the per capita and the ranking information.

Ms. LONG. When questioned about its deployment strategy in the recent past, the Justice Department has contended that its assignment decisions were rational and reasonable because they were largely based on workload, the cases handled by each U.S. attorney in the previous years. In a perfect world, basing deployment decisions on workload would be entirely sensible. In the real world, however, the use of comparative workload statistics in this way has fatal shortcomings.

First, as noted in the statistics developed by TRAC, the interviews conducted by TRAC, by the General Accounting Office in several of its recent reports, and a number of other published works, each U.S. attorney can control how many cases will be accepted each year for prosecution by his or her office and indeed can profoundly influence even the number of recorded matters the office considers for prosecution. Various TRAC research projects have clearly documented the extent to which different U.S. attorneys are able to influence the criminal enforcement activities of their assistants.

Several years ago, for example, we examined the changes that occurred in two big city offices with the appointment of new U.S. attorneys. In the next graphic [graph 9] we look at one of those. This is the southern district of New York, Manhattan. It highlights when the attorneys changed and what you can see is a very sharp increase in the number of criminal cases brought in the southern district when Rudolph Guiliani was U.S. attorney.

The next we looked at [graph 10] is another example in Massachusetts where we found that the proportion of drug cases in relation to all criminal charges varied sharply during the terms of three successive U.S. attorneys, Harrington, Weld, and Mueller.

In a more recent study we examined all civil and criminal environmental cases brought in California during the 1980's. As shown on the next graphic [graph 11], the study found that on a per capita basis the U.S. attorney in southern California, San Diego, that is the bottom bar on the chart, brought about 12 times more actions than his counterpart in the northern district of California, San Francisco. That is the very shortest bar there midway. While it is, of course, possible that southern California has 12 times more pollution than northern California, most experts we have talked to, including the U.S. attorney in San Diego during most of the 1980's,

the period that that chart covered, believe the difference in the two districts was the result of policies set by the individual U.S. attorneys.

Mr. CONDIT. Let me interrupt here. I really hate to do this, it is a great presentation that you are making, but I have got to go vote. The other Members have to also. I would like for them to hear the balance of your testimony, so if I could just recess for approximately 10 minutes, and we will reconvene. I apologize to you.

Ms. LONG. That is part of the business.

Mr. CONDIT. We have two consecutive votes, I understand, so I tried to get it down to the wire. I will be back.

[Recess taken.]

Mr. CONDIT. We apologize to you. We had two consecutive votes so it took a little longer than anticipated, but if you will continue, Ms. Long.

Mr. BURNHAM. OK, we are almost through, Mr. Chairman.

Mr. CONDIT. You take whatever time you need. We have been told we have approximately an hour before the next vote.

Mr. BURNHAM. The Federal Government's allocation process is further hobbled because it currently has no method for obtaining even a rough estimate of the precise number of crimes that are being committed in each district which might potentially result in Federal charges. It should be remembered that the uniform crime report published each year by the FBI does not even attempt to measure the extent of official corruption, white collar crime, or regulatory violations.

Furthermore, except for area arrest totals, the Federal Government has no nationwide system for estimating the relative size of the drug problem in each of the 90 districts. Thus, because U.S. attorneys independently determine the number of cases they will accept and because there is no technique for measuring the actual extent of Federal crime, a valid reckoning of the actual district-by-district workload is at this time not possible.

Ms. LONG. It is obvious that developing a fair and effective process for allocating Federal prosecutors and other enforcement resources is extremely difficult, but as the Federal enforcement and regulatory presence has continued to grow, improving the current questionable methods becomes more and more important to the American people.

Given the vast differences in district populations from over 15 million to under a half million, assigning the same number of prosecutors to each would be anything but evenhanded. At the same time we are not suggesting that each district should have the same prosecutors-to-population ratio. Obviously there are many areas where there are special needs, and examples of this, of course, are District of Columbia, Miami, and Manhattan that have special problems that require more Federal prosecutors than other areas.

On the other hand, we believe that examining the number of assistant U.S. attorneys working in a particular district in relation to its population can provide Congress and the Justice Department a useful starting point for allocating additional resources. In the absence of valid data on the extent of Federal crime in each district, we believe that district population counts should provide the basic foundation of the Department's deployment decisions, the be-

ginning point from which all staff increases or decreases required by the numerous special situations that exist are calculated.

Mr. BURNHAM. Clearly, it is not sufficient simply to argue that the districts given higher prosecutor population ratios are proper because they handle more cases or have more investigators because all districts have more matters referred to them than they can have resources to prosecute. A district that has more prosecutors will, indeed, be able to prosecute more cases. More prosecutions are the natural result of more prosecutors, not a justification for grossly uneven staffing levels.

Equal justice, we know, is an integral principle of our Federal Constitution. For 200 years the provision of equal justice has largely been viewed in terms of providing each citizen the right to due process, most concretely a fair trial. The principle of equal justice, however, carries with it an additional concept—equal protection of the law. Every community has a right to expect an equal enforcement effort from the Federal Government.

In other words, communities that share similar problems and needs are entitled to expect that they will be provided approximately similar efforts by the Federal Government to enforce the laws and the regulations of the Nation.

Thank you very much, Mr. Chairman and subcommittee members.

[The prepared statement of Ms. Long and Mr. Burnham, and the graphs referred to follow:]

PREPARED TESTIMONY

AND

STATEMENT FOR THE RECORD

OF

SUSAN LONG AND DAVID BURNHAM

CO-DIRECTORS

TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE (TRAC)

ON

THE JUSTICE DEPARTMENT'S ALLOCATION OF ENFORCEMENT RESOURCES

BEFORE

THE SUBCOMMITTEE ON INFORMATION, JUSTICE,

TRANSPORTATION, AND AGRICULTURE

GOVERNMENT OPERATIONS COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

OCTOBER 14, 1993

Mr. Chairman and members of the subcommittee, thank you for requesting our testimony. The fair and efficient allocation of federal law enforcement resources is a matter of central concern to every American. We very much appreciate the opportunity to present to you the research findings of the Transactional Records Access Clearinghouse (TRAC) about this key Justice Department process.

We, Susan Long and David Burnham, are the co-director's of TRAC, a unique organization that obtains computerized enforcement and regulatory data under the Freedom of Information Act and organizes this information in ways that allow Congressional committees, scholars, business organizations, public interest groups, and the media to better understand how the agencies actually are functioning. TRAC is a part of Syracuse University. For the last four years it has been supported by Syracuse and a number of foundations including the Bauman Foundation, the Deer Creek Foundation, the J. Roderick MacArthur Foundation, the Matz Foundation, the Millstream Foundation, the Philip M. Stern Family Fund, the Rockefeller Family Fund, and the New York Times Company Foundation. A brief word about ourselves. Susan Long, an associate professor at Syracuse University's School of Management, has a doctorate degree in sociology with a dual major in statistics and criminology. For the last 20 years she has devoted a substantial part of her professional career to studying and writing about federal enforcement issues, primarily focusing on the IRS and the Justice Department. David Burnham has been a reporter and writer

for 35 years, for many of them with The New York Times, and for most of the period investigating and writing about large powerful enforcement agencies such as the New York Police Department, the IRS and the Justice Department. Although working out of TRAC's Washington office, he now is an associate research professor at Syracuse University's Newhouse School of Public Communications.

A key responsibility of all managers is to marshall their resources in the most effective possible manner. That is true whether the manager in question is the director of a big city hospital in New York, the president of a small computer company in California, the superintendent of a public school in Alabama or the commander of a massive army in Kuwait.

Another overseer who is responsible for directing a large and complicated organization, of course, is the attorney general of the United States. With an overall budget of about $10 billion and world-wide operations conducted by more than 30 different semi-autonomous bureaus, divisions, offices and boards, the attorney general's task of deploying the department's 100,000 employees in a rational and effective way is extremely difficult.

The management challenge is especially hard for the attorney general because there is so little accurate and up-to-date intelligence about the various targets of the Justice Department -- the fast-talking white collar criminals who a few years ago saw the savings and loan industry was ripe for picking, the sophisticated drug gangs marketing their illegal wares, the slick operators milking the medicare and medicaid programs, the corrupt government

officials selling public services for a secret fee or the successful executives seeking to maximize their profits by knowingly failing to pay federal income taxes. Nor is there good intelligence on the frequency and distribution of the myriad of civil and regulatory violations that also require department action.

No responsible commander, however, including the attorney general of the United States, can choose to ignore an essential responsibility simply because the task is extremely difficult.

Our testimony today examines how recent attorneys general -- to a certain extent under the mandate of specific congressional laws -- have deployed what well may be the single most important component of the Justice Department's work force. This component is made up of the 3,883 federal prosecutors who today exercise direct control of a substantial proportion of all criminal and civil enforcement actions taken by the federal government within the 50 states.[1]

The increase in federal prosecutors during the past twelve years has been phenomenal -- jumping to 3,883 in 1992 from 1,621 in 1980. Put in relative terms, the number of assistant United States attorneys in the Justice Department increased ten times faster than the nation's population as a whole. (Overall growth graphic)

Much of this growth has come in the last few years. In 1980,

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[1] The figures concerning federal prosecutors are Justice Department counts of the number of full time equivalent work years in each office. The figures exclude the full time equivalent work years of the federal prosecutors assigned to offices in Puerto Rico, the Virgin Islands, Guam and the Northern Marianas.

for example, there were seven federal prosecutors for every million persons living in the United States, in 1988 there were ten per million and in 1992 there were 15.

The moving force behind the recent spurt in the number of federal prosecutors was Congress' concern about two specific kinds of crime and its decision to bolster federal enforcement efforts relating to these problems: financial institution fraud and the distribution of illegal drugs.

How has the overall growth in the number of federal prosecutors been allocated among the 90 district offices? Given the widely varying size and nature of each district, it is entirely appropriate that the 2,200 new prosecutors brought on board during this period have not been distributed equally among the districts.

But on their face, do the data suggest that the Justice Department's allocation process has fully reflected the priorities laid down by Congress and the guidelines spelled out by the Justice Department's published deployment criteria? (Thermometer graph: fastest growth)

As you can see, the data show that the six districts experiencing the fastest growth in federal prosecutors from 1980 to 1992 -- 300 per cent or more after adjusting for population changes -- were Hawaii, the western district of Michigan (Grand Rapids), the northern district of New York (Syracuse), Rhode Island, the northern district of West Virginia (Wheeling) and Wyoming. While each of these six districts has many special and important attributes, not one of them springs to mind as either a

major financial center or as a leading drug distribution point, the focus areas for the Congressionally mandated attack on bank fraud and illegal narcotics.

At the other extreme are the districts that experienced the slowest growth. (Thermometer graph: slowest growth) These included the central district of California (Los Angeles), the northern district of California (San Francisco), the District of Columbia, the northern district of Illinois (Chicago) and the southern district of New York (Manhattan and suburban counties to its immediate north). Once again, the question can be asked: does the comparatively slow growth of federal prosecutors assigned to these five districts -- all of them major financial centers, all of them suffering from high levels of violent crime and the ravages of drugs -- fit with the mandates of Congress?

In its most narrowly focused form, considering the national concerns about bank fraud and illegal drugs, does it make sense that from 1980 to 1992 the per capita number of federal prosecutors in the two fastest growing districts --Wyoming and the northern district of West Virginia -- increased eight times faster than in the slowest, San Francisco?

So far we have been presenting to you a kind of motion picture that has examined how the Justice Department has deployed the large number of additional assistant United States attorneys that Congress decided were needed to deal with the nation's crime problems over a long period of time --from 1980 and 1992.

Now we want to show you a snapshot of just one year -- a

snapshot that presents the number of assistant United States attorneys working in each of the districts in relation to its population in fiscal year 1992. After twelve years of phenomenal growth, how do the districts line up in terms of their staffing?

As we already have noted, the 90 districts are extremely varied in terms of both their intrinsic crime problems and their basic size. Because the federal government now has no way to quantify the extent of federal crimes being committed in a given district, we will postpone our discussion of that area until later in our statement. Obviously, however, quantifying the differences in population is a relatively straight forward proposition.

In 1992, for example, Census Bureau data indicate that the central district of California (Los Angeles) was the nation's most populous district with 15.7 million persons. At the other extreme was Wyoming, with an estimated population of 466,000. In other words, the population served by the United States Attorney in Los Angeles last year was 33 times larger than that served by the U.S. attorney in Cheyenne.

Because of this vast differences in population size it is necessary to find a way of putting the districts into perspective. Just looking at the hard <u>number</u> of federal prosecutors working in each district is more confusing than enlightening. What questions suggest themselves, for example, from the consideration of the simplistic fact that district A has 100 assistant U.S. attorneys while district B has 200? But when the <u>numbers</u> are turned into valid <u>rates</u>, put on a common footing by looking at the number of

prosecutors in relation to the population they serve, patterns emerge that can serve as the foundation for constructive inquiry.

One way of examining the Justice Department's deployment of assistant U.S. attorneys in 1992 is to compare the number of prosecutors working in adjoining areas which on their face appear to be quite similar. (1992 Table, Mountain/Central) Why, for example, should Idaho and Utah have 12 federal prosecutors per million (1.2 per 100,000), Montana have 13 prosecutors per million residents (1.3 per 100,000), North Dakota 16 (1.6 per 100,000), South Dakota 20 (2 per 100,000) when Wyoming has 30 per million (3 per 100,000)?

Similar apparent disparities can be found when looking at neighboring districts in the east. (1992 Table, East) What were the objective criteria that resulted in the northern district of New York having 8 prosecutors per million people (.8 per 100,000), New Hampshire having 14 per million (1.4 per 100,000) and Vermont 24 (2.4 per 100,00)?

Another perspective on the same basic question can be gained by restricting one's view to the twelve districts with the largest metropolitan areas. (1992 Table-large population districts) What is the justification for the fact that the eastern district of New York (Brooklyn and the rest of Long Island), the northern district of Illinois (Chicago) and the northern district of Texas (Ft Worth-Dallas) all have substantially larger number of prosecutors in relation to population than the eastern district of Michigan (Detroit) and the northern district of California (San Francisco)?

Because assistant United States attorneys in the District of Columbia are responsible for prosecuting local as well as federal crime, it would not be appropriate to compare its staffing with any other district.

As we suggested at the beginning of our statement, we believe the way the Justice Department has deployed its resources, in this case assistant U.S. attorneys, raises very serious questions about the department's basic management skills while under the control of both Democratic and Republican administrations.

But the variations in staffing also have a direct impact on the levels of protection offered by the federal government to every citizen in the United States. To give you a better sense of this particular aspect of the equation we have extracted the rates for the United States Attorneys offices in each of your Congressional districts. (1992 Table - Congressional districts)

As you can see, these range from highs of 41 and 30 in the southern distric of Florida (Miami) and Wyoming to lows of 8 and 12 in the eastern district of California (Sacramento), the northern district of California (San Francisco) and the middle district of Florida (Tampa). The per capita level of prosecutors in the central district of California (Los Angeles) also was comparatively low.

We fully understand that Congress from time to time has approved laws which effectively mandated increases for certain sections of the United States. We also believe, however, that the staffing patterns uncovered by our research indicate that Justice

Department managers, going back for many years, have failed to follow a logical, consistent and understandable procedure when it came to divvying up federal prosecutors. (Thermometer graph --1992 staffing)

When questioned about its deployment strategy in the recent past, the Justice Department has contended that its assignment decisions were rational and reasonable because they were largely based on workload -- the cases handled by each U.S. attorney in the previous years. In a perfect world, basing deployment decisions on workload would be entirely sensible.

In the real world, however, the use of comparative workload statistics in this way has fatal shortcomings. First, as noted in the statistics developed by TRAC, the interviews conducted by TRAC, by the General Accounting Office in several of its recent reports, and in a number of other published works, each U.S. attorney can control how many cases will be accepted each year for prosecution by his or her office and indeed can profoundly influence even the number of recorded matters that the office considers for prosecution. In the enforcement of laws concerning drug dealing and bank fraud, for example, it is known that individual U.S. attorneys around the country routinely develop widely varying rules about which cases they will accept and which they will ignore or pass on to local prosecutors. In other situations, U.S. attorneys have been known to refuse to prosecute certain categories of cases which for one reason or another they found unacceptable.

Various TRAC research projects have clearly documented the

extent to which different U.S. attorneys are able to influence the criminal enforcement activities of their assistants. Several years ago, for example, we examined the changes that occurred in two "big city" offices with the appointment of new U.S. attorneys. In one situation, we found that the number of criminal cases brought in the southern district of New York (Manhattan) substantially increased during the years that Rudolph Giuliani was U.S. attorney. (Manhattan criminal prosecutions-1980/1987) In Massachusetts, on the other hand, we found that the proportion of drug cases in relation to all criminal charges varied sharply during the terms of three successive U.S. attorneys. (Massachusetts Drug Charges-1980/1987)

In a more recent study, we examined all civil and criminal environmental cases brought in California during the 1980s. The study found that on a per capita basis the United States attorney in southern California (San Diego) brought about twelve times more actions than his counterpart in the northern district of California (San Francisco.) While it is of course possible that southern California has twelve times more pollution than northern California, most experts we have talked to -- including the U.S. attorney in San Diego during most of the 1980s -- believe the difference in the two districts was the result of policies set by the individual U.S. attorneys. (Environmental enforcement in California --district by district comparison)

As mentioned briefly above, the federal government's allocation process is furthered hobbled because it currently has no

method for obtaining even a rough estimate of the number of crimes that are being committed in each district which might potentially result in federal charges. It should be remembered that the Uniform Crime Report published each year by the FBI does not even attempt to measure the extent of official corruption, white collar crime or regulatory violations. Furthermore, except for area arrest totals, the federal government has no nation wide system for estimating the relative size of the drug problem in each of the 90 districts. Thus, because U.S. attorneys independently determine the number of cases they will accept and there is no technique for measuring the actual extent of federal crime, a valid reckoning of the actual district-by-district workload is at this time not possible.

The absolute control that individual U.S. attorneys can, and frequently do, exercise over their workloads contrasts with the situation of federal judges. Federal judges have almost no way of influencing the volume of cased filed in their courts. This fundamental difference in basic administrative authority explains why case load is not a valid independent criteria for determining the allocation of federal prosecutors but is appropriate for judges.

In several recent statements, the Justice Department has said that in addition to case load, another independent variable it considers in the allocation of prosecutors is the number of federal investigative agents working in each district. While this factor obviously is not irrelevant to the business presented each office, it should be recalled that the attorney general has the lawful

responsibility of providing overall direction to the FBI, the DEA and the INS as well as the U.S. attorneys. In this sense, then, the number of federal agents in a district is another variable that is in fact not independent from the control of the Justice Department.

It is obvious that developing a fair and effective process for allocating federal prosecutors and other enforcement resources is extremely difficult. But as the federal enforcement and regulatory presence has continued to grow, improving the current questionable methods becomes more and more important to the American people. Given the vast difference in district populations --15.7 million people in one, 466,000 in another -- assigning the same number of prosecutors to each would be anything but even handed. At the same time, we are not suggesting that each district should have the same prosecutor-to-population ratio. Obviously, there are some areas such as the District of Columbia, Miami and Manhattan that have special problems that require more federal prosecutors than other areas.

On the other hand, we believe that examining the number of assistant U.S. attorneys working in a particular district in relation to its population can provide Congress and the Justice Department a useful starting point for allocating additional resources. In the absence of valid data on the extent of federal crime in each district, we believe that district population counts should provide the basic foundation of the Department's deployment decisions, the beginning point from which all staff increases or decreases required by special situations are calculated.

This yardstick also can provide a useful "after-the-fact" check on existing deployment patterns. One can compare prosecutor to population ratios in adjacent districts, in districts including only large metropolitan areas, or groups of districts having other kinds of similar characteristics and ask a series of good questions. Are the prosecutor/population ratios roughly comparable? How do the prosecutor/population ratios of the selected districts compare with the national average -- about the same, much higher, or much lower? What special circumstances, if any, justify these differences?

This, of course, is what TRAC's analysis allows anyone to do. Taking periodic stock of the overall picture is important so that the cumulative effects of annual changes in prosecutorial resources aren't allowed to get "out of whack," and the Justice Department and Congress can judge whether the overall pattern makes sense and supports current government goals.

Clearly it is not sufficient simply to argue that the districts given higher prosecutor/population ratios are proper because they handle more cases or have more investigators. Because all districts have many more matters referred to them than they have resources to prosecute, a district that has more prosecutors will indeed be able to prosecute more cases. More prosecutions are the natural result of more prosecutors, not a justification for grossly uneven staffing levels.

Equal justice for all, we know, is an integral principle of our federal constitution. For two hundred years, the provision of

equal justice has largely been viewed in terms of providing each citizen the right to due process, most concretely a fair trial. But the principle of equal justice carries within it an additional concept: equal protection of the law. Every community has a right to expect an equal enforcement effort from the federal government. In other words, communities that share similar problems and needs are entitled to expect that they will be provided approximately similar efforts by the federal government to enforce the laws and regulations of the nation.

Attachments to the Prepared Testimony

of

Susan B. Long and David B. Burnham, Co-Directors
Transactional Records Access Clearinghouse (*TRAC*))

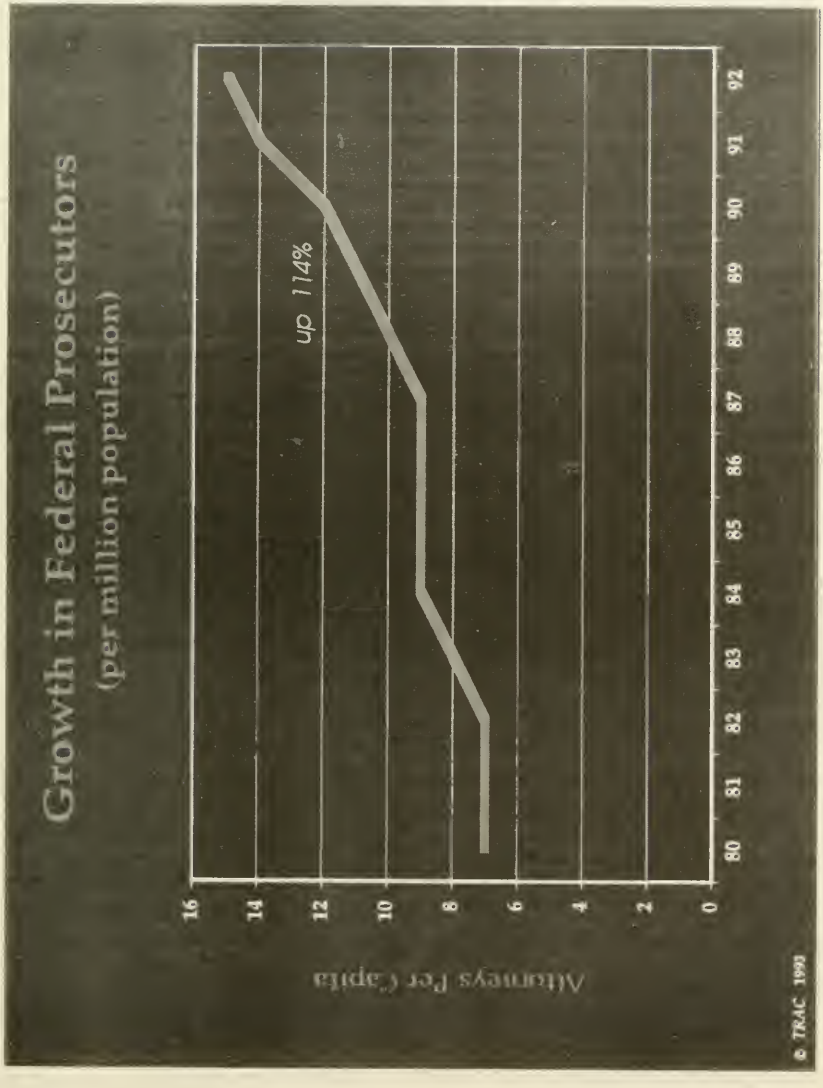
on

The Justice Department's Allocation of Enforcement Resources

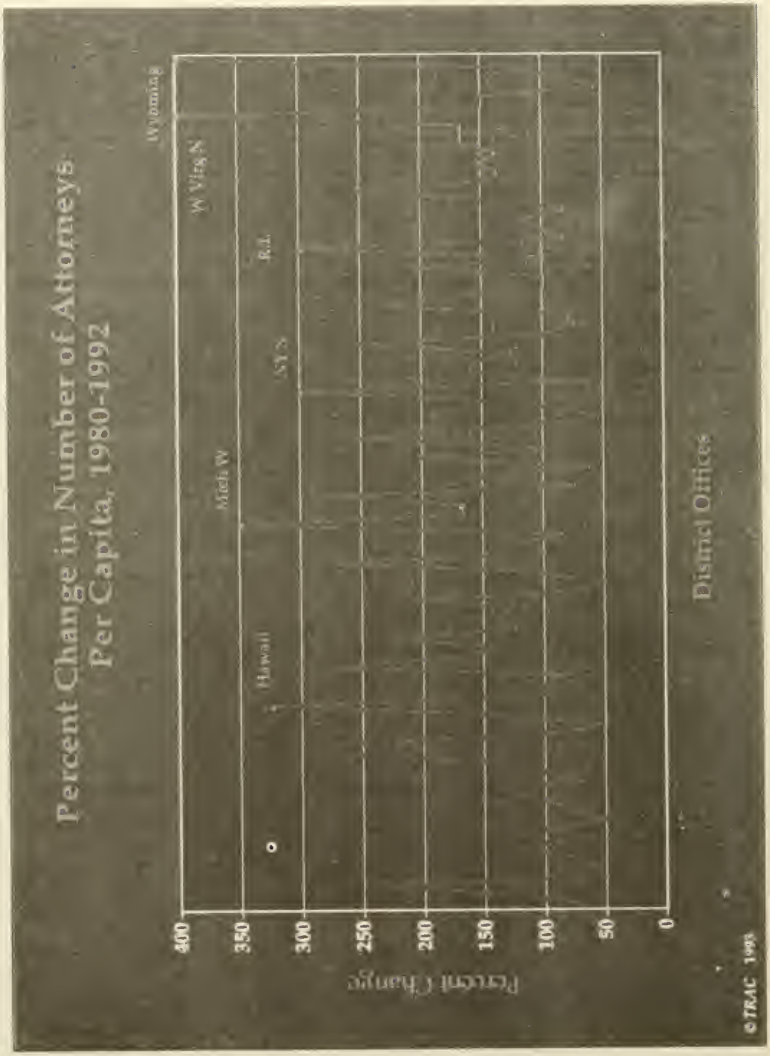
Before
The Subcommittee on Information, Justice, Transportation and Agriculture
Committee on Government Operations
U. S. House of Representatives

October 14, 1993

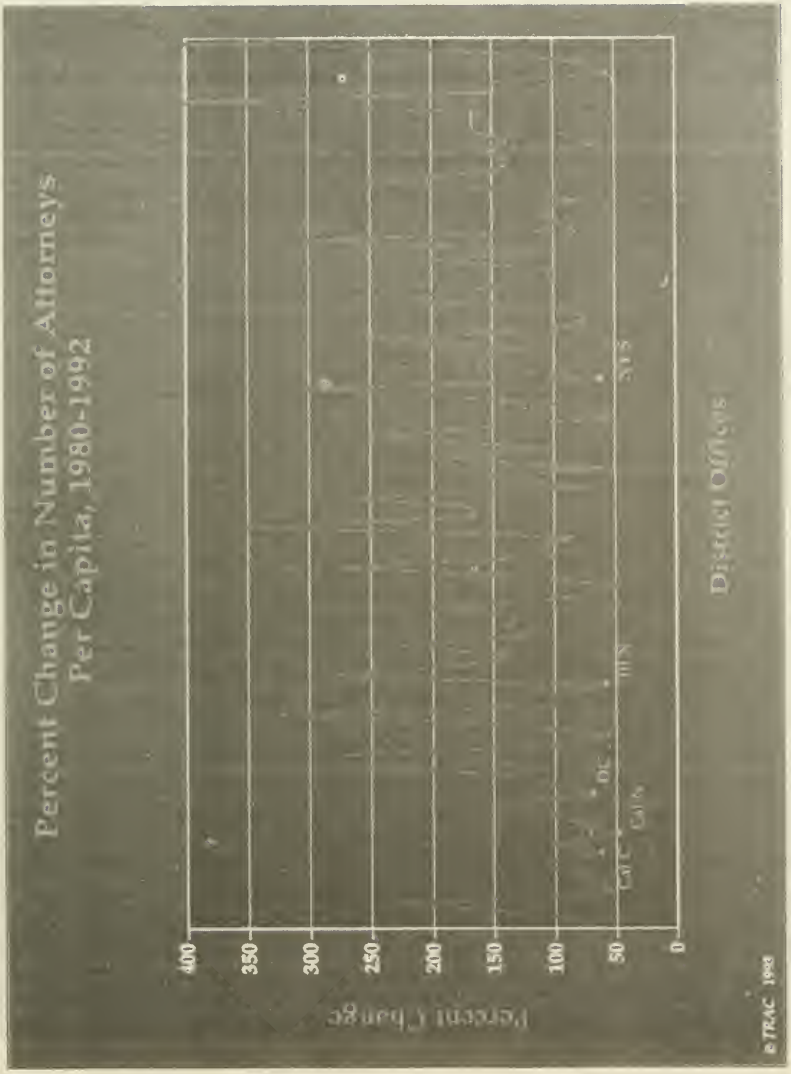
Graph 1


Growth in Federal Prosecutors
(per million population)
Attorneys Per Capita
16
14
12
10
8
6
4
2
0
80
81
82
83
84
85
86
87
88
89
90
91
92
up 114%
© TRAC 1993

Graph 2


Percent Change in Number of Attorneys
Per Capita, 1980-1992
Wyoming
W Virg N
Mich W
Hawaii
R.I.
Percent Change
400
350
300
250
200
150
100
50
0
Dismal Offices
©TRAC 1993

Graph 3


Percent Change in Number of Attorneys
Per Capita, 1980-1992
Percent Change
400
350
300
250
200
150
100
50
0
District Offices
©TRAC 1993

Graph 4

Federal Prosecutors

Staffing in Selected Adjacent Districts (Mountain/Central)

District	Attorneys Per Capita *
Wyoming	30
South Dakota	20
North Dakota	16
Montana	13
Idaho	12
Utah	12

* Per million population

Graph 5

Federal Prosecutors

Staffing in Selected Adjacent Districts (East)

District	Attorneys Per Capita *
Vermont	24
New Hampshire	14
New York, North	8

* Per million population

Graph 6

Federal Prosecutors

Comparison of Staffing in the Largest Metropolitan Areas

District	Attorneys Per Capita *
California, North	12
California, Central	13
Massachusetts	13
Michigan, East	13
Texas, North	15
Illinois, Northern	16
Texas, South	19
New York, East	20
Pennsylvania, East	20
Florida, South	41
New York, South	41
D. C.	212

* Per million population

Graph 7

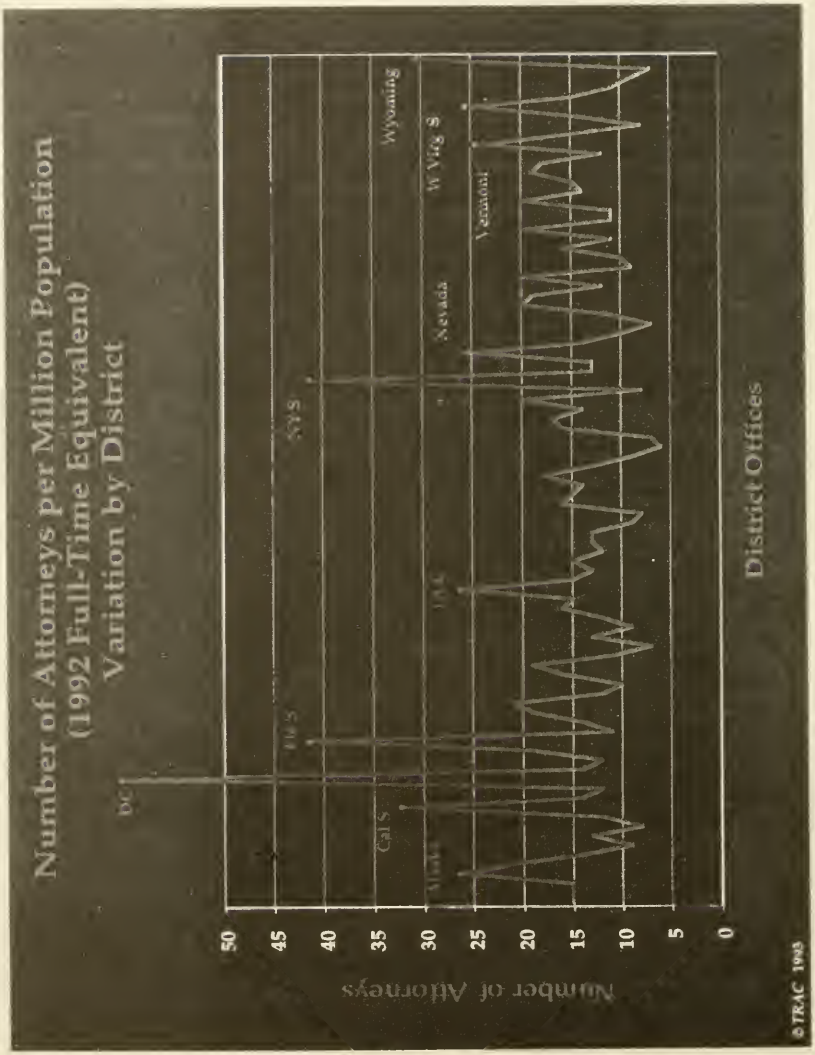
Federal Prosecutors

Comparison of Judicial Districts of Sub-Committee Members

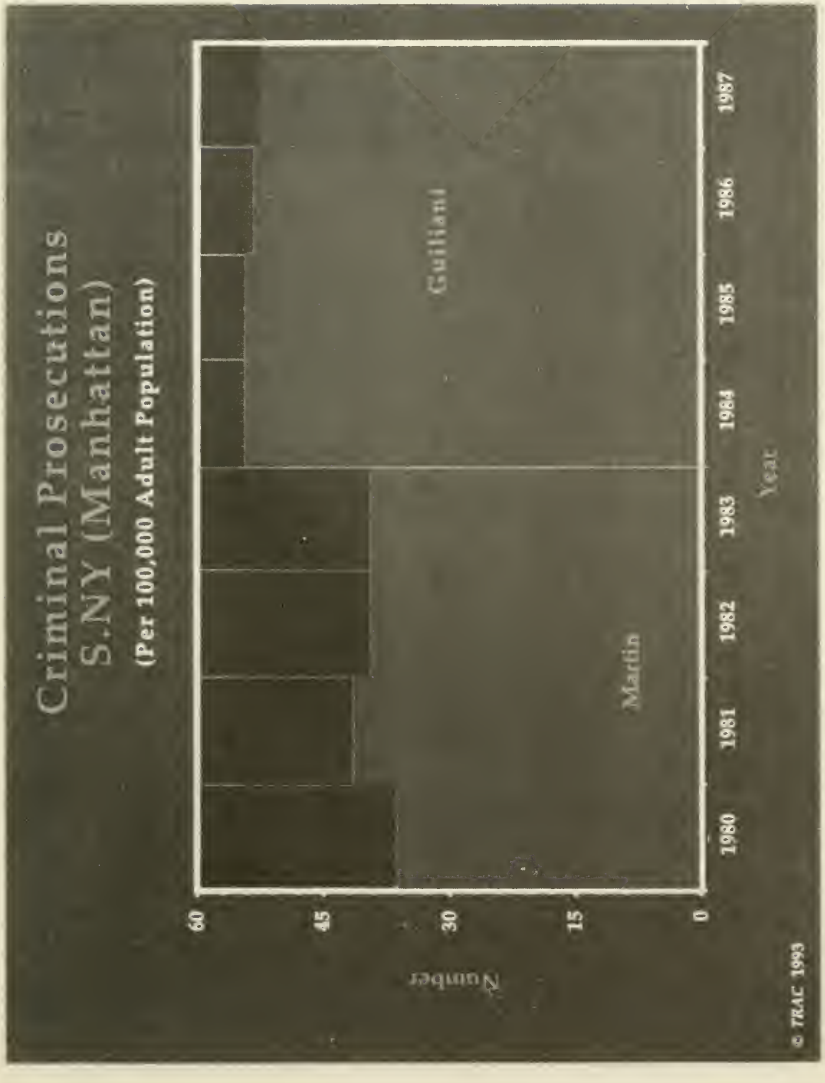
District	Attorneys Per Capita *
California, Central	13
California, East	8
California, North	12
Florida, Middle	12
Florida, South	41
Michigan, East	13
New York, East	20
Wyoming	30

* Per million population

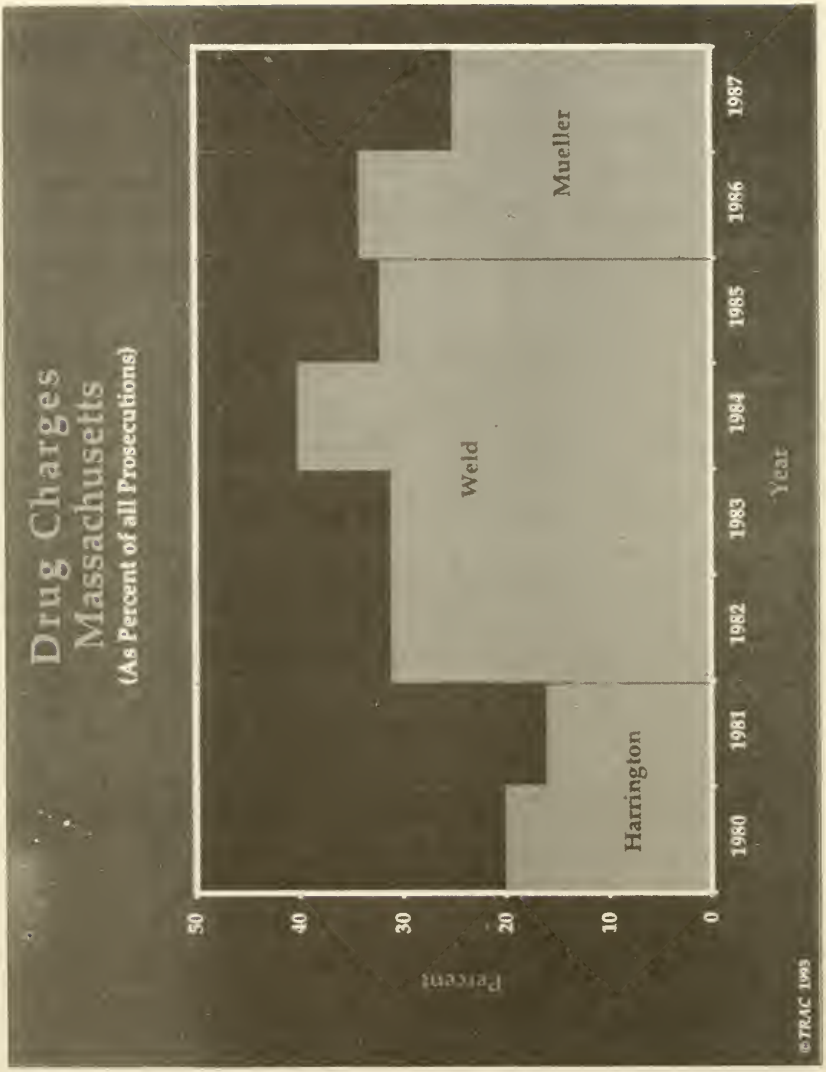
Graph 8


Number of Attorneys per Million Population
(1992 Full-Time Equivalent)
Variation by District
DC
Cal S
Alaska
Nevada
W Virg S
Vermont
Wyoming
50
45
40
35
30
25
20
15
10
5
0
Number of Attorneys
District Offices
©TRAC 1993

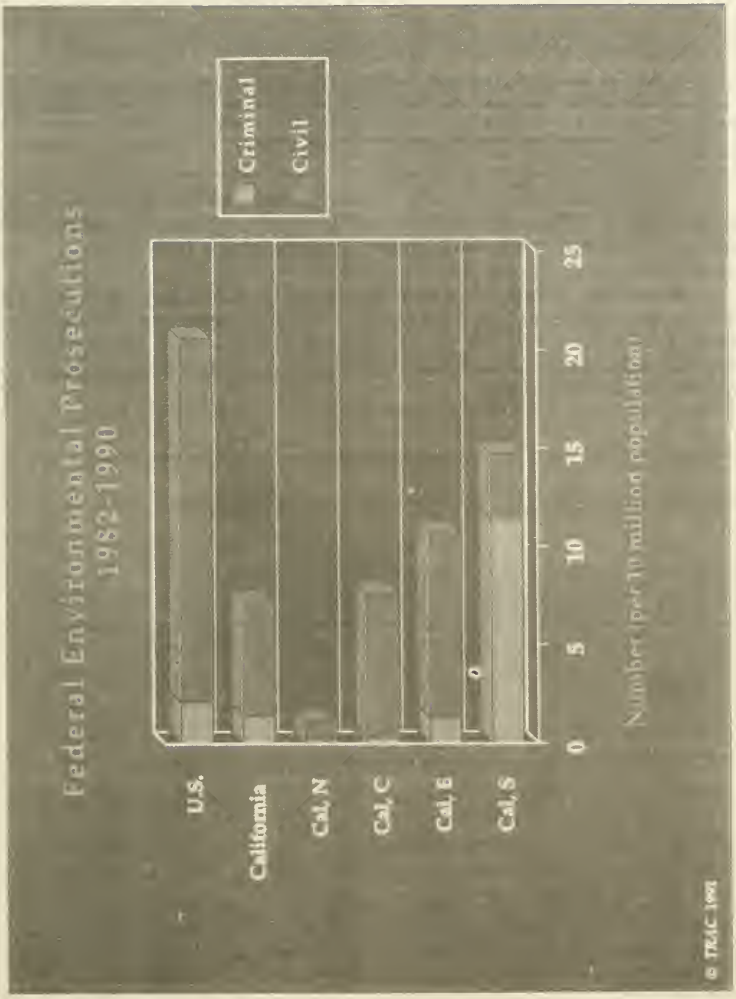
Graph 9


Criminal Prosecutions
S.NY (Manhattan)
(Per 100,000 Adult Population)
Number
60
45
30
15
0
Martin
Guiliani
1980
1981
1982
1983
1984
1985
1986
1987
Year
© TRAC 1993

Graph 10


Drug Charges
Massachusetts
(As Percent of all Prosecutions)
Percent
50
40
30
20
10
0
Harrington
Weld
Mueller
1980
1981
1982
1983
1984
1985
1986
1987
Year
©TRAC 1993

Graph 11


Federal Environmental Prosecutions
1982-1990
U.S.
California
Cal, N
Cal, C
Cal, E
Cal, S
Criminal
Civil
0
5
10
15
20
25
Number cases per 10 million population
© TRAC 1991

TABLES

TRAC's computations and tabular analyses are based on material drawn from the annual Statistical Report of the Executive Office for United States Attorneys, information from the EOUSA's internal files, and United States Census Bureau annual estimates of population in each county in the country.

Coverage focuses upon U.S. attorney offices within the fifty states, excluding employees for the U.S. attorney offices in Puerto Rico, Guam, the Virgin Islands, the Canal Zone (1980-1982 only), and Northern Mariana Islands (1984-1992).

Rounding: Subtotals for each circuit and for the United States as a whole may differ from the sum of the numbers shown since they were calculated before rounding to ensure greater accuracy. For clarity, "% Chg" is based upon the tabulated rounded figures for each office. Ranks were computed on number of attorneys (full-time equivalent), prior to rounding.

Table 1
Number of Attorneys (Full-Time Equivalent) in U.S. Attorney Offices
By District, 1980-1992

Circuit	District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg
1	Maine	4	6	6	7	7	10	11	11	12	14	14	18	19	375
	Mass	32	33	31	32	40	43	47	44	44	44	62	74	80	150
	New Hamp	4	4	4	5	6	5	6	7	7	7	11	14	15	275
	R. I.	4	4	4	7	8	9	9	10	11	11	14	15	16	300
2	Conn	15	16	17	20	21	22	22	24	26	28	36	41	40	167
	N. Y., E	54	60	60	57	67	68	67	73	80	85	105	131	144	167
	N. Y., N	8	9	9	11	13	15	16	16	16	19	24	29	29	263
	N. Y., S	110	89	113	110	121	127	132	128	132	148	165	180	189	72
	N. Y., W	14	13	12	15	19	19	21	20	21	23	30	36	39	179
	Vermont	5	6	6	7	6	8	8	7	9	10	11	13	14	180
3	Delaware	4	5	5	5	6	7	7	7	7	7	9	10	10	150
	N. J.	61	58	53	56	66	68	64	65	70	71	83	96	107	75
	Penn, E	49	50	49	49	57	59	59	59	61	67	82	95	107	118
	Penn, M	9	10	10	11	13	13	13	14	15	17	20	23	24	167
	Penn, W	20	23	22	24	28	31	29	28	28	30	32	38	40	100
4	Maryland	27	27	27	26	34	33	34	36	37	39	40	51	58	115
	N Car, E	6	6	8	10	11	13	13	15	17	17	20	23	24	300
	N Car, M	5	4	5	8	9	9	9	8	9	10	11	12	13	160
	N Car, W	4	5	4	6	8	9	9	9	10	10	12	14	15	275
	S Car	18	21	21	22	26	27	26	26	26	27	33	39	41	128
	Virg, E	23	27	27	30	36	36	36	40	44	50	51	67	70	204
	Virg, W	6	8	8	9	10	11	10	11	11	12	13	15	16	167
	W Virg, N	3	3	2	4	5	7	8	9	10	10	11	13	12	300
	W Virg, S	11	12	10	12	14	16	16	15	18	20	21	24	24	118
5	La, E	25	24	24	24	30	30	29	30	28	30	36	43	42	68
	La, M	6	7	6	6	7	8	8	8	8	8	9	11	10	67
	La, W	13	11	11	15	17	16	17	18	19	19	22	24	27	108
	Miss, N	5	6	7	8	8	8	9	9	10	12	13	15	16	220
	Miss, S	6	8	8	9	11	13	14	15	16	17	20	22	24	300
	Texas, E	7	9	10	11	19	15	15	15	16	20	26	32	34	386
	Texas, N	27	31	31	36	32	34	36	37	39	41	54	70	79	193
	Texas, S	36	38	42	39	51	52	45	53	66	67	82	96	113	214
	Texas, W	22	23	24	25	29	29	29	32	40	46	59	72	78	255
6	Ken, E	13	14	15	16	19	19	19	20	21	22	23	28	29	123
	Ken, W	9	7	7	10	12	15	14	15	16	18	20	25	28	211
	Mich, E	42	43	43	46	52	53	53	57	59	57	72	80	81	93
	Mich, W	7	7	9	10	15	16	17	17	17	18	21	27	29	314
	Ohio, N	28	31	32	35	40	40	39	39	44	43	53	58	59	111
	Ohio, S	18	24	23	23	25	26	27	26	30	31	33	37	37	106
	Tenn, E	9	10	8	9	11	14	14	16	16	18	19	22	23	156
	Tenn, M	9	8	8	11	12	13	13	13	13	14	15	17	17	89
	Tenn, W	12	11	11	13	14	16	17	18	18	20	24	27	28	133
7	Ill, C	11	12	12	12	10	16	15	16	15	17	20	20	23	109
	Ill, N	81	82	85	80	90	83	85	83	90	89	107	124	132	63
	Ill, S	6	6	7	8	16	11	11	11	13	15	17	23	24	300
	Ind, N	9	8	9	12	15	15	14	16	17	18	20	23	25	178
	Ind, S	11	11	12	13	13	17	18	19	18	21	22	24	25	127
	Wisc, E	14	14	12	14	15	16	17	16	18	20	23	25	27	93
	Wisc, W	6	7	6	7	8	8	9	10	10	11	12	12	14	133

(CONTINUED)

Table 1
Number of Attorneys (Full-Time Equivalent) in U.S. Attorney Offices
By District, 1980-1992

Circuit	District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg
8	Ark, E	11	13	13	14	16	16	15	14	15	15	17	19	20	82
	Ark, W	4	3	3	5	6	6	5	6	7	8	9	10	9	125
	Iowa, N	5	3	3	4	7	6	6	8	9	10	13	16	17	240
	Iowa, S	6	5	4	6	9	10	10	9	10	10	11	13	14	133
	Minnesota	13	14	15	18	21	22	19	21	21	23	29	36	35	169
	Mo, E	20	21	21	21	22	25	27	26	27	28	29	33	37	85
	Mo, W	17	19	19	20	24	25	25	26	27	28	38	43	44	159
	Nebraska	8	8	8	10	11	12	12	12	14	15	16	19	20	150
	N Dakota	4	3	4	6	7	7	7	7	6	8	10	11	10	150
	S Dakota	7	8	8	10	9	11	11	10	12	12	15	15	15	114
9	Alaska	7	6	7	8	9	8	9	9	10	11	12	14	15	114
	Arizona	35	36	35	38	43	38	39	43	52	53	58	72	82	134
	Cal, C	92	90	89	91	108	108	105	101	109	110	136	166	199	116
	Cal, E	18	19	19	23	30	30	31	30	32	36	38	47	49	172
	Cal, N	44	48	43	44	52	54	54	55	57	58	70	75	80	82
	Cal, S	35	37	35	37	44	49	47	56	62	64	70	82	88	151
	Hawaii	5	3	4	6	9	12	12	13	15	16	20	22	24	380
	Idaho	6	5	5	7	8	7	9	9	11	11	12	13	13	117
	Montana	6	6	5	7	7	8	10	10	10	10	11	12	11	83
	Nevada	9	9	9	11	14	16	17	20	21	24	27	33	34	278
	Oregon	15	16	14	16	22	24	25	26	26	28	31	38	36	140
	Wash, E	6	5	6	7	7	9	9	10	12	12	13	16	18	200
	Wash, W	23	24	24	24	29	27	28	30	31	33	37	44	45	96
10	Colorado	21	20	21	23	28	30	30	30	30	32	37	46	48	129
	Kansas	11	12	12	15	17	16	16	17	19	21	24	29	29	164
	N Mexico	14	16	15	15	17	17	18	19	22	22	27	28	27	93
	Okla, E	4	3	2	3	5	9	6	6	6	6	7	8	7	75
	Okla, N	5	5	7	7	8	5	10	12	12	13	14	16	17	240
	Okla, W	11	13	12	13	16	15	16	17	20	21	26	30	32	191
	Utah	8	8	9	11	12	12	13	13	16	17	19	21	21	163
	Wyoming	3	3	3	4	5	5	6	7	7	9	10	14	14	367
11	Ala, M	8	8	9	10	11	9	10	10	10	11	13	14	15	88
	Ala, N	15	20	18	21	25	22	23	25	27	31	31	34	36	140
	Ala, S	5	5	5	6	7	8	9	10	11	12	14	16	17	240
	Fla, M	25	30	30	29	47	45	46	48	50	52	63	78	87	248
	Fla, N	6	8	7	8	12	14	17	17	19	19	21	22	25	317
	Fla, S	41	51	59	79	98	88	89	96	107	110	156	195	206	402
	Ga, M	9	8	8	10	11	40	12	10	11	13	17	18	19	111
	Ga, N	25	29	28	32	38	12	38	38	41	44	44	51	56	124
	Ga, S	8	8	10	11	14	14	15	15	15	16	17	20	23	188
	D. C.	80	82	82	82	105	80	78	71	74	77	76	111	125	56
Total	U.S.	1621	1676	1700	1842	2187	2214	2237	2298	2467	2614	3062	3621	3883	140

Table 2
Number of Attorneys (Full-Time Equivalent) in U.S. Attorney Offices
for Each Million Persons Living in the District, 1980 - 1992

Sorted by Ratio of Attorneys per Million Population in 1992

District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	Rank	% Chg
D. C.	125	128	130	130	165	127	123	111	118	124	124	185	212	1	70
N. Y., S	25	20	26	25	27	28	29	28	29	32	36	40	41	2	64
Fla, S	11	13	15	20	24	21	21	22	24	24	33	40	41	3	273
Cal, S	18	18	17	18	20	22	21	23	25	25	27	31	32	4	78
Wyoming	6	5	6	8	9	10	12	14	16	19	22	30	30	5	400
La, E	15	14	14	14	18	17	17	18	17	19	22	26	26	6	73
Alaska	17	15	15	16	18	16	17	17	18	20	22	25	26	7	53
W Virg, S	10	11	9	11	13	15	15	15	18	20	21	25	25	8	150
Nevada	11	11	10	12	15	17	18	20	20	21	22	26	25	9	127
Vermont	9	12	11	13	12	15	15	14	17	17	20	24	24	10	167
Ala, S	7	6	7	8	10	11	12	13	15	17	19	22	23	11	229
Arizona	13	13	12	13	14	12	12	12	15	15	16	19	21	12	62
Hawaii	5	3	4	6	9	11	11	12	14	15	18	19	21	13	320
S Dakota	10	11	11	14	13	16	15	15	16	18	21	21	20	14	100
Penn, E	10	10	10	10	11	12	12	11	12	13	16	18	20	15	100
Okla, N	6	7	8	8	9	6	12	14	14	16	17	19	20	16	233
N. Y., E	8	8	8	8	9	9	9	10	11	12	15	18	20	17	150
Tenn, W	9	9	8	9	11	12	13	13	13	14	17	19	20	18	122
Ill, S	5	5	5	7	13	9	9	9	10	12	14	19	19	19	280
Texas, S	8	8	8	7	9	10	8	10	12	12	15	17	19	20	138
Ga, S	8	8	9	10	13	13	13	13	13	14	15	17	19	21	138
Okla, W	7	8	7	7	9	9	9	10	12	13	15	18	19	22	171
Fla, N	5	7	7	7	10	12	14	14	15	15	16	17	19	23	280
Texas, W	7	7	7	7	8	7	7	8	10	11	14	17	18	24	157
Mo, W	7	8	8	8	10	10	10	11	11	11	15	17	18	25	157
N Mexico	11	12	11	11	12	12	13	13	15	15	18	18	17	26	55
Miss, N	6	6	7	8	8	8	9	9	10	12	14	16	16	27	167
Ill, N	10	10	11	10	11	10	11	10	11	11	13	15	16	28	60
N Dakota	6	5	7	9	10	10	10	10	10	13	15	17	16	29	167
Ken, E	7	8	8	9	11	10	10	11	12	12	13	15	16	30	129
R. I.	4	4	5	7	8	9	9	10	11	11	13	15	16	31	300
Virg, E	6	7	7	8	9	9	9	10	10	12	12	15	16	32	167
Wash, E	6	5	5	7	7	8	9	9	11	11	12	14	15	33	150
Ala, M	9	9	10	11	11	10	11	10	11	12	13	15	15	34	67
Texas, N	6	7	7	8	7	7	7	7	8	8	11	14	15	35	150
Maine	4	5	5	6	6	9	9	10	10	11	12	14	15	36	275
Ala, N	7	9	8	9	11	10	10	11	12	13	13	14	15	37	114
Ken, W	5	4	4	5	7	8	8	8	9	10	11	13	15	38	200
La, M	10	12	10	9	11	13	13	13	13	13	14	17	15	39	50
W Virg, N	3	3	2	4	5	8	9	11	12	12	14	15	15	40	400
Miss, S	4	5	5	6	7	8	9	9	10	10	12	14	15	41	275
Texas, E	4	4	5	5	9	7	7	7	7	9	11	14	14	42	250
Ga, N	9	10	9	10	12	4	11	11	12	12	12	13	14	43	56
Delaware	7	8	8	8	9	11	11	11	11	11	13	15	14	44	100
Colorado	7	7	7	7	9	9	9	9	9	10	11	13	14	45	100
Ark, E	8	9	9	10	12	11	11	10	11	11	12	14	14	46	75
Mo, E	8	8	8	8	9	9	10	10	10	11	11	13	14	47	75

(CONTINUED)

Table 2
Number of Attorneys (Full-Time Equivalent) in U.S. Attorney Offices
for Each Million Persons Living in the District, 1980 - 1992

Sorted by Ratio of Attorneys per Million Population in 1992

District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	Rank	% Chg
N. J.	8	8	7	8	9	9	8	8	9	9	11	12	14	48	75
New Hamp	4	4	4	5	6	5	6	7	6	7	9	12	14	49	250
Montana	8	7	6	9	8	10	12	12	12	13	14	14	13	50	63
Mass	6	6	5	6	7	7	8	7	7	7	10	12	13	51	117
N. Y., W	5	4	4	5	7	7	7	7	7	8	10	12	13	52	160
La, W	6	5	6	7	8	8	8	9	10	9	11	12	13	53	117
Iowa, N	4	2	2	3	5	5	5	6	7	8	10	13	13	54	225
Cal, C	8	7	7	7	8	8	8	7	8	7	9	11	13	55	63
Mich, E	7	7	7	7	8	9	8	9	9	9	11	13	13	56	86
Nebraska	5	5	5	6	7	8	7	8	9	9	10	12	13	57	160
Oregon	6	6	5	6	8	9	9	9	9	10	11	13	12	58	100
Conn	5	5	5	6	7	7	7	7	8	9	11	12	12	59	140
Fla, M	5	6	5	5	8	8	8	7	8	8	9	11	12	60	140
Idaho	6	5	6	7	8	7	9	9	11	11	12	12	12	61	100
Cal, N	8	8	7	7	9	9	9	9	9	9	11	11	12	62	50
Maryland	6	6	6	6	8	8	8	8	8	8	8	10	12	63	100
Utah	5	5	5	7	8	7	8	8	9	10	11	12	12	64	140
Kansas	5	5	5	6	7	7	7	7	8	8	10	11	12	65	140
Ga, M	6	5	5	6	7	25	8	7	7	8	10	11	11	66	83
Okla, E	6	5	4	5	8	14	9	9	9	9	11	12	11	67	83
S Car	6	7	6	7	8	8	8	8	8	8	9	11	11	68	83
Tenn, E	5	5	4	5	6	7	7	8	8	9	10	11	11	69	120
Wash, W	7	7	7	7	9	8	8	9	9	9	10	11	11	70	57
Tenn, M	6	6	6	8	9	9	9	9	9	9	10	11	11	71	83
Ind, N	4	4	4	5	7	7	6	7	7	8	9	10	11	72	175
Ill, C	5	5	5	5	5	7	7	7	7	8	9	9	10	73	100
Ohio, N	5	5	5	6	7	7	7	7	8	8	9	10	10	74	100
Penn, W	5	5	5	6	7	8	7	7	7	8	8	9	10	75	100
Mich, W	2	2	3	4	5	5	6	6	6	6	7	9	9	76	350
Ark, W	4	4	4	5	6	7	5	6	7	8	9	10	9	77	125
N Car, E	3	3	3	4	5	5	5	6	7	7	8	9	9	78	200
Iowa, S	4	3	2	4	6	7	7	6	6	7	7	9	9	79	125
Wisc, E	5	5	4	5	5	5	6	6	6	7	8	8	9	80	80
Penn, M	3	4	4	4	5	5	5	5	6	6	7	8	9	81	200
N. Y., N	2	3	3	3	4	5	5	5	5	6	7	8	8	82	300
Cal, E	4	4	4	5	7	6	6	6	6	7	7	8	8	83	100
Virg, W	3	4	4	5	6	6	5	6	6	6	7	8	8	84	167
Minnesota	3	3	4	4	5	5	5	5	5	5	7	8	8	85	167
Ind, S	3	3	4	4	4	5	5	6	6	6	7	7	7	86	133
Ohio, S	4	5	5	5	5	5	5	5	6	6	6	7	7	87	75
N Car, W	2	3	2	3	4	5	5	5	5	5	6	7	7	88	250
Wisc, W	3	4	3	4	4	4	5	5	5	6	6	6	7	89	133
N Car, M	3	2	3	4	4	5	5	4	4	5	5	6	6	90	100
U. S.	7	7	7	8	9	9	9	9	10	11	12	14	15	.	114

Table 3
Number of Attorneys (Full-Time equivalent) in U.S. Attorney Offices
for Each Million Persons Living in the District, 1980 - 1992

Sorted by the Percent Change in Attorney Ratio from 1980 to 1992

District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg	Rank
Wyoming	6	5	6	8	9	10	12	14	16	19	22	30	30	400	2
W Virg, N	3	3	2	4	5	8	9	11	12	12	14	15	15	400	2
Mich, W	2	2	3	4	5	5	6	6	6	6	7	9	9	350	3
Hawaii	5	3	4	6	9	11	11	12	14	15	18	19	21	320	4
R. I.	4	4	5	7	8	9	9	10	11	11	13	15	16	300	6
N. Y., N	2	3	3	3	4	5	5	5	5	6	7	8	8	300	6
Ill, S	5	5	5	7	13	9	9	9	10	12	14	19	19	280	8
Fla, N	5	7	7	7	10	12	14	14	15	15	16	17	19	280	8
Maine	4	5	5	6	6	9	9	10	10	11	12	14	15	275	10
Miss, S	4	5	5	6	7	8	9	9	10	10	12	14	15	275	10
Fla, S	11	13	15	20	24	21	21	22	24	24	33	40	41	273	11
Texas, E	4	4	5	5	9	7	7	7	7	9	11	14	14	250	14
New Hamp	4	4	4	5	6	5	6	7	6	7	9	12	14	250	14
N Car, W	2	3	2	3	4	5	5	5	5	5	6	7	7	250	14
Okla, N	6	7	8	8	9	6	12	14	14	16	17	19	20	233	15
Ala, S	7	6	7	8	10	11	12	13	15	17	19	22	23	229	16
Iowa, N	4	2	2	3	5	5	5	6	7	8	10	13	13	225	17
Ken, W	5	4	4	5	7	8	8	8	9	10	11	13	15	200	20
N Car, E	3	3	3	4	5	5	5	6	7	7	8	9	9	200	20
Penn, M	3	4	4	4	5	5	5	5	6	6	7	8	9	200	20
Ind, N	4	4	4	5	7	7	6	7	7	8	9	10	11	175	21
Okla, W	7	8	7	7	9	9	9	10	12	13	15	18	19	171	22
Vermont	9	12	11	13	12	15	15	14	17	17	20	24	24	167	28
Miss, N	6	6	7	8	8	8	9	9	10	12	14	16	16	167	28
N Dakota	6	5	7	9	10	10	10	10	10	13	15	17	16	167	28
Virg, E	6	7	7	8	9	9	9	10	10	12	12	15	16	167	28
Virg, W	3	4	4	5	6	6	5	6	6	6	7	8	8	167	28
Minnesota	3	3	4	4	5	5	5	5	5	5	7	8	8	167	28
N. Y., W	5	4	4	5	7	7	7	7	7	8	10	12	13	160	30
Nebraska	5	5	5	6	7	8	7	8	9	9	10	12	13	160	30
Texas, W	7	7	7	7	8	7	7	8	10	11	14	17	18	157	32
Mo, W	7	8	8	8	10	10	10	11	11	11	15	17	18	157	32
W Virg, S	10	11	9	11	13	15	15	15	18	20	21	25	25	150	36
N. Y., E	8	8	8	8	9	9	9	10	11	12	15	18	20	150	36
Wash, E	6	5	5	7	7	8	9	9	11	11	12	14	15	150	36
Texas, N	6	7	7	8	7	7	7	7	8	8	11	14	15	150	36
Conn	5	5	5	6	7	7	7	7	8	9	11	12	12	140	40
Fla, M	5	6	5	5	8	8	8	7	8	8	9	11	12	140	40
Utah	5	5	5	7	8	7	8	8	9	10	11	12	12	140	40
Kansas	5	5	5	6	7	7	7	7	8	8	10	11	12	140	40
Texas, S	8	8	8	7	9	10	8	10	12	12	15	17	19	138	42
Ga, S	8	8	9	10	13	13	13	13	13	14	15	17	19	138	42
Ind, S	3	3	4	4	4	5	5	6	6	6	7	7	7	133	44
Wisc, W	3	4	3	4	4	4	5	5	5	6	6	6	7	133	44
Ken, E	7	8	8	9	11	10	10	11	12	12	13	15	16	129	45
Nevada	11	11	10	12	15	17	18	20	20	21	22	26	25	127	46
Ark, W	4	4	4	5	6	7	5	6	7	8	9	10	9	125	48

(CONTINUED)

Table 3
Number of Attorneys (Full-Time equivalent) in U.S. Attorney Offices
for Each Million Persons Living in the District, 1980 - 1992

Sorted by the Percent Change in Attorney Ratio from 1980 to 1992

District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg	Rank
Iowa, S	4	3	2	4	6	7	7	6	6	7	7	9	9	125	48
Tenn, W	9	9	8	9	11	12	13	13	13	14	17	19	20	122	49
Tenn, E	5	5	4	5	6	7	7	8	8	9	10	11	11	120	50
Mass	6	6	5	6	7	7	8	7	7	7	10	12	13	117	52
La, W	6	5	6	7	8	8	8	9	10	9	11	12	13	117	52
Ala, N	7	9	8	9	11	10	10	11	12	13	13	14	15	114	53
S Dakota	10	11	11	14	13	16	15	15	16	18	21	21	20	100	65
Penn, E	10	10	10	10	11	12	12	11	12	13	16	18	20	100	65
Delaware	7	8	8	8	9	11	11	11	11	11	13	15	14	100	65
Colorado	7	7	7	7	9	9	9	9	9	10	11	13	14	100	65
Oregon	6	6	5	6	8	9	9	9	9	10	11	13	12	100	65
Idaho	6	5	6	7	8	7	9	9	11	11	12	12	12	100	65
Maryland	6	6	6	6	8	8	8	8	8	8	8	10	12	100	65
Ill, C	5	5	5	5	5	7	7	7	7	8	9	9	10	100	65
Ohio, N	5	5	5	6	7	7	7	7	8	8	9	10	10	100	65
Penn, W	5	5	5	6	7	8	7	7	7	8	8	9	10	100	65
Cal, E	4	4	4	5	7	6	6	6	6	7	7	8	8	100	65
N Car, M	3	2	3	4	4	5	5	4	4	5	5	6	6	100	65
Mich, E	7	7	7	7	8	9	8	9	9	9	11	13	13	86	66
Ga, M	6	5	5	6	7	25	8	7	7	8	10	11	11	83	70
Okla, E	6	5	4	5	8	14	9	9	9	9	11	12	11	83	70
S Car	6	7	6	7	8	8	8	8	8	8	9	11	11	83	70
Tenn, M	6	6	6	8	9	9	9	9	9	9	10	11	11	83	70
Wisc, E	5	5	4	5	5	5	6	6	6	7	8	8	9	80	71
Cal, S	18	18	17	18	20	22	21	23	25	25	27	31	32	78	72
Ark, E	8	9	9	10	12	11	11	10	11	11	12	14	14	75	76
Mo, E	8	8	8	8	9	9	10	10	10	11	11	13	14	75	76
N. J.	8	8	7	8	9	9	8	8	9	9	11	12	14	75	76
Ohio, S	4	5	5	5	5	5	5	5	6	6	6	7	7	75	76
La, E	15	14	14	14	18	17	17	18	17	19	22	26	26	73	77
D. C.	125	128	130	130	165	127	123	111	118	124	124	185	212	70	78
Ala, M	9	9	10	11	11	10	11	10	11	12	13	15	15	67	79
N. Y., S	25	20	26	25	27	28	29	28	29	32	36	40	41	64	80
Montana	8	7	6	9	8	10	12	12	12	13	14	14	13	63	82
Cal, C	8	7	7	7	8	8	8	7	8	7	9	11	13	63	82
Arizona	13	13	12	13	14	12	12	12	15	15	16	19	21	62	83
Ill, N	10	10	11	10	11	10	11	10	11	11	13	15	16	60	84
Wash, W	7	7	7	7	9	8	8	9	9	9	10	11	11	57	85
Ga, N	9	10	9	10	12	4	11	11	12	12	12	13	14	56	86
N Mexico	11	12	11	11	12	12	13	13	15	15	18	18	17	55	87
Alaska	17	15	15	16	18	16	17	17	18	20	22	25	26	53	88
La, M	10	12	10	9	11	13	13	13	13	13	14	17	15	50	90
Cal, N	8	8	7	7	9	9	9	9	9	9	11	11	12	50	90
U. S.	7	7	7	8	9	9	9	9	10	11	12	14	15	114	.

Appendix A
Population (in thousands) for Each U.S. Attorney District
1980 - 1992

Circuit	District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg
1	Maine	1,128	1,133	1,137	1,145	1,156	1,163	1,170	1,185	1,204	1,220	1,228	1,235	1,241	10
	Mass	5,748	5,769	5,771	5,799	5,841	5,881	5,903	5,935	5,980	6,015	6,016	5,996	5,976	4
	New Hamp	925	937	948	958	977	997	1,025	1,054	1,083	1,105	1,109	1,105	1,100	19
	R. I.	949	953	954	956	962	969	977	990	996	1,001	1,003	1,004	1,005	6
	1st CIRC	8,750	8,791	8,810	8,859	8,935	9,009	9,075	9,164	9,263	9,341	9,357	9,340	9,323	7
2	Conn	3,114	3,129	3,139	3,162	3,180	3,201	3,224	3,247	3,272	3,283	3,287	3,291	3,295	6
	N. Y., E	7,085	7,100	7,126	7,191	7,221	7,243	7,264	7,266	7,277	7,263	7,240	7,247	7,254	2
	N. Y., N	3,243	3,237	3,238	3,246	3,254	3,267	3,269	3,279	3,307	3,337	3,358	3,386	3,414	5
	N. Y., S	4,370	4,368	4,368	4,406	4,446	4,467	4,496	4,525	4,548	4,554	4,552	4,566	4,581	5
	N. Y., W	2,869	2,863	2,857	2,844	2,824	2,815	2,805	2,799	2,809	2,828	2,840	2,858	2,876	0
	Vermont	513	516	519	523	527	530	534	540	550	558	563	567	571	11
	2nd CIRC	21,193	21,212	21,248	21,373	21,452	21,523	21,591	21,656	21,763	21,824	21,840	21,915	21,991	4
3	Delaware	595	596	599	605	612	618	628	637	648	658	666	680	694	17
	N. J.	7,377	7,408	7,431	7,468	7,515	7,566	7,622	7,671	7,712	7,726	7,730	7,760	7,791	6
	Penn, E	5,019	5,020	5,019	5,025	5,036	5,049	5,086	5,133	5,167	5,181	5,179	5,208	5,238	4
	Penn, M	2,639	2,645	2,646	2,648	2,650	2,651	2,662	2,678	2,703	2,728	2,749	2,783	2,819	7
	Penn, W	4,215	4,193	4,180	4,165	4,128	4,071	4,034	4,001	3,975	3,957	3,954	3,970	3,986	-5
	3rd CIRC	19,844	19,862	19,875	19,911	19,942	19,955	20,033	20,119	20,206	20,250	20,278	20,401	20,527	3
4	Maryland	4,226	4,262	4,283	4,313	4,365	4,413	4,487	4,566	4,658	4,727	4,781	4,860	4,940	17
	N Car, E	2,233	2,258	2,282	2,316	2,355	2,397	2,429	2,461	2,490	2,530	2,555	2,593	2,633	18
	N Car, M	1,852	1,868	1,884	1,899	1,919	1,941	1,962	1,988	2,011	2,032	2,050	2,082	2,115	14
	N Car, W	1,811	1,831	1,853	1,862	1,890	1,915	1,931	1,955	1,980	2,004	2,024	2,061	2,099	16
	S Car	3,132	3,179	3,208	3,234	3,272	3,303	3,343	3,381	3,412	3,457	3,487	3,560	3,634	16
	Virg, E	3,562	3,633	3,677	3,748	3,826	3,895	3,992	4,103	4,198	4,272	4,327	4,408	4,491	26
	Virg, W	1,806	1,812	1,816	1,817	1,818	1,820	1,819	1,829	1,839	1,848	1,860	1,878	1,897	5
	W Virg, N	872	874	873	871	866	859	850	844	838	832	830	835	841	-4
	W Virg, S	1,081	1,080	1,077	1,074	1,061	1,048	1,032	1,014	992	974	964	966	968	-10
	4th CIRC	20,575	20,796	20,952	21,134	21,373	21,592	21,845	22,140	22,418	22,676	22,878	23,243	23,619	15
5	La, E	1,633	1,656	1,682	1,696	1,697	1,698	1,694	1,668	1,648	1,633	1,620	1,632	1,644	1
	La, M	594	607	618	628	633	637	637	629	625	623	624	634	644	8
	La, W	1,994	2,021	2,052	2,071	2,070	2,073	2,076	2,047	2,016	1,996	1,976	1,986	1,996	0
	Miss, N	970	970	972	971	973	972	971	970	971	970	970	979	988	2
	Miss, S	1,554	1,569	1,585	1,597	1,605	1,616	1,622	1,619	1,610	1,605	1,603	1,613	1,624	5
	Texas, E	1,937	1,982	2,045	2,094	2,136	2,174	2,204	2,227	2,249	2,267	2,292	2,334	2,377	23
	Texas, N	4,298	4,390	4,519	4,633	4,722	4,818	4,919	4,952	4,964	4,990	5,020	5,090	5,162	20
	Texas, S	4,702	4,887	5,150	5,300	5,340	5,363	5,427	5,388	5,380	5,445	5,538	5,712	5,892	25
	Texas, W	3,401	3,487	3,617	3,725	3,809	3,917	4,011	4,055	4,074	4,105	4,136	4,214	4,294	26
	5th CIRC	21,083	21,569	22,241	22,715	22,986	23,269	23,562	23,555	23,536	23,634	23,780	24,193	24,620	17
6	Ken, E	1,791	1,797	1,801	1,808	1,808	1,812	1,810	1,810	1,810	1,807	1,814	1,835	1,856	4
	Ken, W	1,875	1,874	1,882	1,886	1,887	1,883	1,878	1,873	1,870	1,870	1,872	1,879	1,886	1
	Mich, E	6,388	6,319	6,243	6,190	6,182	6,189	6,220	6,252	6,250	6,261	6,283	6,321	6,360	-0
	Mich, W	2,869	2,890	2,872	2,858	2,867	2,887	2,908	2,936	2,968	2,992	3,012	3,046	3,081	7
	Ohio, N	5,913	5,891	5,860	5,838	5,824	5,801	5,777	5,769	5,770	5,775	5,771	5,801	5,833	-1
	Ohio, S	4,890	4,898	4,897	4,900	4,914	4,934	4,953	4,991	5,028	5,055	5,077	5,137	5,199	6
	Tenn, E	1,935	1,953	1,960	1,964	1,968	1,968	1,964	1,972	1,982	1,990	1,996	2,027	2,058	6
	Tenn, M	1,348	1,359	1,369	1,378	1,397	1,416	1,437	1,465	1,484	1,501	1,516	1,547	1,579	17
	Tenn, W	1,318	1,315	1,317	1,318	1,322	1,332	1,337	1,346	1,357	1,364	1,366	1,379	1,393	6
	6th CIRC	28,326	28,296	28,202	28,140	28,169	28,221	28,285	28,414	28,519	28,614	28,705	28,973	29,246	3
7	Ill, C	2,288	2,292	2,271	2,255	2,235	2,213	2,188	2,174	2,167	2,162	2,160	2,173	2,185	-5
	Ill, N	7,888	7,883	7,890	7,892	7,919	7,931	7,946	7,970	7,983	8,015	8,040	8,136	8,234	4
	Ill, S	1,259	1,269	1,262	1,262	1,258	1,256	1,253	1,248	1,241	1,234	1,231	1,234	1,238	-2
	Ind, N	2,276	2,263	2,253	2,239	2,241	2,243	2,237	2,245	2,256	2,271	2,277	2,297	2,318	2

(CONTINUED)

Appendix A
Population (in thousands) for Each U.S. Attorney District
1980 - 1992

Circuit	District	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	% Chg
7	Ind, S	3,217	3,217	3,215	3,211	3,217	3,216	3,217	3,228	3,236	3,253	3,268	3,312	3,358	4
	Wisc, E	2,858	2,855	2,855	2,849	2,854	2,864	2,870	2,885	2,911	2,934	2,957	2,992	3,028	6
	Wisc, W	1,856	1,871	1,874	1,873	1,881	1,884	1,886	1,893	1,911	1,922	1,935	1,963	1,992	7
	7th CIRC	21,642	21,650	21,620	21,581	21,606	21,607	21,597	21,642	21,704	21,790	21,867	22,108	22,354	3
8	Ark, E	1,374	1,376	1,376	1,380	1,384	1,387	1,389	1,393	1,391	1,393	1,394	1,403	1,411	3
	Ark, W	915	917	918	926	936	940	943	950	952	953	956	969	983	7
	Iowa, N	1,390	1,383	1,370	1,359	1,351	1,331	1,305	1,287	1,285	1,283	1,281	1,286	1,292	-7
	Iowa, S	1,525	1,525	1,518	1,511	1,508	1,498	1,487	1,480	1,484	1,487	1,495	1,509	1,522	-0
	Minnesota	4,087	4,112	4,131	4,141	4,158	4,184	4,205	4,235	4,296	4,338	4,375	4,432	4,491	10
	Mo, E	2,588	2,590	2,585	2,588	2,600	2,612	2,620	2,634	2,644	2,646	2,653	2,667	2,681	4
	Mo, W	2,335	2,342	2,345	2,356	2,376	2,388	2,403	2,422	2,438	2,450	2,464	2,491	2,518	8
	Nebraska	1,573	1,578	1,582	1,584	1,589	1,585	1,574	1,567	1,571	1,575	1,578	1,593	1,607	2
	N Dakota	655	659	669	677	680	677	670	661	655	646	639	635	631	-4
	S Dakota	691	690	691	693	697	698	696	696	698	697	696	703	711	3
	8th CIRC	17,132	17,173	17,185	17,216	17,278	17,301	17,292	17,325	17,414	17,469	17,533	17,688	17,848	4
9	Alaska	405	419	450	488	514	533	544	539	542	547	550	570	592	46
	Arizona	2,736	2,810	2,890	2,969	3,067	3,184	3,308	3,437	3,535	3,622	3,665	3,750	3,837	40
	Cal, C	12,013	12,254	12,542	12,823	13,072	13,379	13,771	14,141	14,479	14,859	15,118	15,411	15,713	31
	Cal, E	4,114	4,227	4,347	4,455	4,555	4,680	4,796	4,943	5,104	5,282	5,456	5,645	5,842	42
	Cal, N	5,697	5,784	5,864	5,967	6,054	6,157	6,239	6,318	6,415	6,528	6,579	6,658	6,739	18
	Cal, S	1,968	2,021	2,068	2,115	2,164	2,225	2,296	2,375	2,466	2,550	2,607	2,665	2,725	38
	Hawaii	962	978	994	1,013	1,028	1,040	1,052	1,068	1,080	1,095	1,108	1,135	1,162	21
	Idaho	949	962	974	982	991	994	990	985	986	994	1,007	1,039	1,073	13
	Montana	789	795	804	814	821	822	814	805	800	800	799	808	818	4
	Nevada	810	848	882	902	925	951	981	1,023	1,075	1,137	1,202	1,284	1,372	69
	Oregon	2,642	2,668	2,665	2,653	2,667	2,673	2,684	2,701	2,741	2,791	2,842	2,922	3,004	14
	Wash, E	1,027	1,042	1,050	1,053	1,060	1,064	1,062	1,062	1,067	1,076	1,090	1,124	1,158	13
	Wash, W	3,128	3,194	3,227	3,247	3,284	3,336	3,391	3,470	3,573	3,671	3,777	3,894	4,016	28
	9th CIRC	37,240	38,002	38,754	39,481	40,200	41,037	41,927	42,868	43,863	44,950	45,800	46,906	48,051	29
10	Colorado	2,910	2,978	3,062	3,134	3,170	3,209	3,237	3,261	3,262	3,276	3,294	3,377	3,462	19
	Kansas	2,370	2,385	2,401	2,416	2,424	2,427	2,433	2,445	2,462	2,473	2,478	2,495	2,512	6
	N Mexico	1,309	1,333	1,364	1,394	1,417	1,438	1,463	1,479	1,490	1,504	1,515	1,548	1,581	21
	Okla, E	630	634	641	659	660	659	659	656	646	641	639	643	646	3
	Okla, N	798	815	842	860	861	859	860	851	839	837	841	855	870	9
	Okla, W	1,611	1,648	1,723	1,771	1,765	1,753	1,734	1,703	1,682	1,673	1,666	1,677	1,688	5
	Utah	1,473	1,515	1,558	1,595	1,622	1,643	1,663	1,678	1,689	1,706	1,723	1,770	1,819	23
	Wyoming	474	492	506	510	505	500	496	477	465	458	454	460	466	-2
	10th CIRC	11,576	11,799	12,097	12,339	12,424	12,488	12,544	12,550	12,536	12,567	12,609	12,823	13,045	13
11	Ala, M	915	921	922	922	926	930	936	942	947	948	949	960	971	6
	Ala, N	2,278	2,285	2,285	2,291	2,303	2,316	2,326	2,342	2,350	2,359	2,368	2,396	2,425	6
	Ala, S	707	713	718	721	722	726	729	731	727	723	723	733	743	5
	Fla, M	5,069	5,240	5,408	5,587	5,779	5,973	6,166	6,355	6,529	6,712	6,899	7,086	7,279	44
	Fla, N	1,057	1,081	1,104	1,128	1,149	1,174	1,197	1,223	1,238	1,265	1,280	1,314	1,350	28
	Fla, S	3,714	3,871	3,960	4,035	4,112	4,204	4,305	4,419	4,539	4,662	4,759	4,877	4,997	35
	Ga, M	1,530	1,543	1,556	1,561	1,570	1,579	1,584	1,593	1,598	1,604	1,606	1,625	1,645	8
	Ga, N	2,911	2,969	3,024	3,089	3,173	3,277	3,380	3,485	3,579	3,655	3,708	3,812	3,921	35
	Ga, S	1,043	1,056	1,070	1,078	1,092	1,106	1,120	1,131	1,140	1,152	1,163	1,185	1,207	16
	11th CIRC	19,225	19,680	20,047	20,412	20,827	21,286	21,744	22,221	22,647	23,079	23,457	23,989	24,537	28
D. C.	D. C.	637	637	634	632	633	635	638	637	630	624	607	598	590	-7
	D.C. CIRC	637	637	634	632	633	635	638	637	630	624	607	598	590	-7
Total	U. S.	227,226	229,466	231,665	233,793	235,826	237,924	240,133	242,290	244,500	246,820	248,710	252,177	255,752	13

TABLE NOTES

Table 1: Yearly entries are number of full-time equivalent attorneys in each district office, rounded to the nearest whole number. "% Chg" is the change between 1980 and 1992 in the number of attorneys in each office, expressed as a percent of their 1980 staffing levels.

The yearly entries do not include the special assistant U. S. attorneys who have been appointed from other federal agencies, civilian and military. Although most of these special assistant U.S. attorneys presumably function on a part time basis, their numbers are not insignificant. According to an April 10, 1991 submission to the House Judiciary Subcommittee on Intellectual Property and Judicial Administration, for example, there were 2,014 such assistants active as of November 18, 1990.

Tables 2-3: Yearly entries are number of full-time equivalent attorneys in each district per every million persons living in the district, rounded to the nearest whole number. "% Chg" is the change between 1980 and 1992 in staffing levels per million population, expressed as a percent of each office's 1980 figures.

Appendix Table A: Yearly entries are population figures in each district in thousands. "% Chg" is the change between 1980 and 1992 population levels, expressed as a percent of each district's 1980 population. The 1980 - 1991 figures were compiled by *TRAC* from the U.S. Census Bureau's county level population estimates. Census estimates for 1980-1989 and 1991 are based upon population estimates as of July 1 each year; those for 1990 are for April 1. Since the U.S. Census Bureau has not developed similar estimates for 1992, the 1992 figures are an estimate projecting a growth rate between 1991 and 1992 equivalent to the district's estimated growth rate between 1990 and 1991.

Population figures for 1980 - 1989 differ slightly from those reported in *TRAC*'s December 1990 report* for two reasons. For 1980, the earlier report used a population estimate as of April 1, while for consistency with later years this report uses an estimate as of July 1 of that year which Census has recently made. The earlier 1981 through 1988 county-level estimates have been revised by the Census Bureau, and the 1989 figures developed by Census, utilizing information from the more recent 1990 Census.

In developing U.S. attorney district population estimates from the Census Bureau's county level data, consistent boundaries are used for all years. Consequently, these do not reflect slight boundary adjustments made by Public Law 97-471 (West Virginia), Public Law 100-702 (Florida), and Public Law 102-100 (Virginia).

* Susan B. Long, David Burnham, and Linda Kesselring, Federal Prosecutors: Composition and Growth in Staffing in Each U.S. Attorney Office During the Last Decade. Transactional Records Access Clearinghouse: December 1990 (89 Pages).

Mr. CONDIT. Thank you both very much. Once again we do apologize for interrupting you. I have a couple questions, then I am going to have Mr. Horn ask his questions. I know he has to leave a little bit early.

Does your data regarding population include individuals who are undocumented aliens?

Ms. LONG. Our data on population is from the Bureau of the Census, and as you know, that is an area where there are largely—there are undercounts often, so to the extent that the census data does not reflect a true count of undocumented aliens, neither does our data as well.

Mr. CONDIT. What effect does this undercount have on your analysis?

Ms. LONG. Well, essentially we do know that the undercount is unevenly distributed in the land, and, for example, out in California census estimates are that that is probably a large area of undercount, and to that extent that would mean the low ratios in California for staffing would be even worse if we had an estimate of population that really captured undocumented aliens.

Mr. CONDIT. On page 5 of his testimony, Mr. Moscato states that the General Accounting Office agrees with the Department's conclusion that population should not be a critical allocation factor. Also in his response to your earlier work Justice pointed out that the GAO model had suggested that Los Angeles, Detroit, Boston, Baltimore, Newark were all overstaffed in the number of prosecutors, although you had considered them understaffed. How would you respond to these statements of the Justice Department?

Ms. LONG. I think that is a very interesting point, and it is important to look indepth at the GAO study because it has a number of assumptions. If you look at that study and in particular at page 30—as a statistician, of course, I pay attention to these assumptions—you see that they point out, "that the validity of staffing ratios and resource allocations estimated using" this is the GAO model and I am quoting "rests on four assumptions" and No. 1 was that the "U.S. Attorney offices do not control their workloads."

[NOTE.—The GAO report referred to is entitled, "U.S. Attorneys: Better Models Can Reduce Resource Disparities Among Offices." GAO/GGD–91–39 (March 1991).]

Ms. LONG. They point out, GAO points out that if this assumption is not valid that—and I am quoting again from their report—"staffing ratios will be biased." That is that they are going to be wrong. So we know that this assumption, in fact, is not valid; that U.S. attorneys do control their caseload, and thus the model's premise is not valid and the results following it are not those that should be relied on.

For example, GAO in a more recent study has recognized that. I believe they had a very interesting study that was looking indepth in a particular area, the area of bank and thrift criminal fraud—one of the priorities. They were studying the way different districts were handling prosecutions and pointing out the level of discretion that is being exercised, and according to that study, it notes at page 18, "U.S. Attorney's offices usually have guidelines that suggest a threshold dollar value (the 'declination level') below which they may not pursue a case. Declination levels vary among

the 94 districts, with levels ranging from $5,000 to $100,000," really a huge variation in policies. "Declination policies may be written in such a way, however, that leaves much discretion to the U.S. Attorney about whether to pursue even small cases." So that because of the assumption on which the model is based it does not appear to be a valid assumption. The results that follow will not be ones that can be relied on, as the GAO points out.

[NOTE.—The GAO report referred to is entitled, "Bank and Thrift Criminal Fraud: The Federal Commitment Could Be Broadened." GAO/GGD–91–48 (January 1993).]

Mr. CONDIT. Mr. Moscato also states that Justice cannot agree that population should be a primary factor in determining allocation. Districts with similar population size face vastly different prosecutive and investigative issues, both in size and specific content. Do you have a reaction to Justice Department's statement?

Ms. LONG. Well, we would agree with Justice that obviously there are a lot of special circumstances, as we pointed out. Our only point is that it makes sense, since the population's size varies so sharply among districts that you start out as a starting point with the staffing to population ratio, and then adjust it up or down depending on those special circumstances.

Mr. BURNHAM. I mean, Miami obviously does have a special problem, and its relatively large staff makes sense. Montana obviously has less crime than other areas, and you would make some adjustments.

Ms. LONG. But as we point out, when you look at the ratios of staffing to population, you find that the districts that have particularly high levels aren't necessarily the ones that you might think were the ones where there were particularly high needs.

Mr. BURNHAM. And the fact that Vermont, New Hampshire, and northern district of New York—side by side, very similar economies, not very urban—that they have such huge variation in staff ratios we think suggests that the modeling system isn't working.

Mr. CONDIT. OK. Mr. Horn, I know you have to leave in a little bit. Do you have some questions you would like to ask?

Mr. HORN. Thank you, Mr. Chairman. I have a few. First, I want to commend both of you on your testimony. I think it is just immensely helpful, and I am delighted there is a group such as yours that can look at this aspect of various government agencies and try to get them in some relationship to reality or at least be a check on that.

One of the things I was interested in the chairman has already asked, and that is the illegal alien undercount. When I was vice chairman of the U.S. Commission on Civil Rights, we—I was there 13 years—we looked at the 1970 census, the 1980 census, and published several studies on the subject. There was clearly a minority undercount throughout the Nation in both of those.

I have obviously not examined the 1990 census, but I assume when you are talking about thousands of people every day that come into this country illegally and you do not have a door-to-door count which we probably haven't had in decades, and instead you have a random sample or you have the postcard bit, addressing people that can't even speak English, read the card, and are going to have the fear of ever returning any of those cards dealing with

a governmental authority. So we have probably got several million uncounted, but I suspect we did gain about five congressional seats in California as a result of the illegals, I say to my colleagues from anywhere but California, if they don't want to lose a few more.

One way it seems to me as a former executive that you would go around determining workload and allocation of assistant U.S. attorneys is to look at the type of cases and the complexity of the case. For example, a capital case is going to take a tremendous amount of time. We all know it, murder, manslaughter, all the rest, and the overwhelming load we have in the justice system on narcotics, drugs, be it supply, consumption, whatever, all take a lot of time.

There are two other areas that also interest me, really one other besides the illegals, the drugs, is the Customs area, and what I wonder is, in your analysis do you have some suggestions as to how that caseload evaluation should be made and particularly thinking of the illegal alien problem, the drug use problem, and drug dealing problem, and the Customs situation where you have thousands of transactions going on and Customs can only look at a part of them, but when they get a pattern and a practice, they refer that to the U.S. attorney.

Do you see in the files any evidence as to how many cases were never even brought by the U.S. attorney? Does anybody take that into account, because you can have a bias on a U.S. attorney staff like on any general counsel staff, and I have seen that in my own work experience, where they say, oh, we don't want to bother with that or a deputy State attorney general is reading the case as he walks into court because of work overload. What can you tell us based on observation and experience and analysis?

Ms. LONG. The study that we reported on today was focusing just on staffing, and did not go into the differences in kinds of cases in each office.

Mr. HORN. Well, you started with population, and that is fine, but what did you do next? Give us the series of where you went.

Ms. LONG. What I want to tell you about is some other work we are working on. We have just finished putting together a knowledge base that would allow you to address a number of questions that you were asking about. We have obtained from the Justice Department under the Freedom of Information Act their individual files on computer tape in anonymous form on matters, breaking them down as to when they come in, by district, what kind of lead charge there is, what happens to them, are they turned down, what is the reason for having them turned down, you know, if they file, what happens, and following it through.

What we have done is put this together in a comprehensive form to allow anyone to go in and look and say, address your question, OK, what is happening here, how does this district compare.

Mr. BURNHAM. For example, Mr. Horn, in the narcotics area, we find there are some districts that you would be surprised at where 50 percent of the criminal cases or more are drugs. There are other districts where 15 percent or less are drug cases. There is a huge variation in the way—this is for fiscal year 1991—in the way the individual U.S. attorneys responded to the national consensus that drugs were the No. 1 thing. That was Mr. Thornburgh's position,

and, of course, Mr. Barr's, and yet in some U.S. districts, less than 15 percent of the cases are drugs and in some more than 50 percent were drugs.

Among those with over 50 percent were Iowa north, Iowa south, West Virginia north, West Virginia south. They all had a larger proportion of drug cases than Miami. Now, we don't know what that means. It requires more analysis. We are beginning to get the data to look at that question.

Mr. HORN. Well, let's deal with that one. How far back in time have you gone on the analysis of both the population based on allocation of assistant U.S. attorneys and the point you are raising now? What is your earliest time data?

Ms. LONG. The study that we did and reported on here began in 1980. We have data back to 1974. The definitions used by the U.S. attorney's office have changed, and we are working on to what extent can we follow things back. The categorization that was used in the 1980's that classified things into groups, those groups weren't the same as in the 1970's, but the tapes also contain lead charge on criminal cases by title and section number that are consistent going back, and so we just started the process of trying to reconstruct categories that would be comparable to allow that process; with the data as it comes, that is not possible, but we want to extend it back as far as we can.

Mr. BURNHAM. So we hope to have 1975 to date.

Mr. HORN. OK. Because the minute I saw Wyoming I thought Joseph O'Mahoney, I thought to what degree are these related, one, to the allocation of Federal district judges, is there some relationship there statistically or is there no relationship there statistically. We know there are many smaller States in the Union with their power in the Senate Judiciary, the other body as we euphemistically say, that they can get those resources or the bill doesn't get out of their committee, and I would just be curious if any analysis such as that was made.

Ms. LONG. We have recently obtained information that gives a breakdown on judges, and we intend to add that to our knowledge base so one could look at those issues, but essentially TRAC, we are only trying to gather as much information, put it in a systematic form to allow all sorts of kinds of questions to be addressed, not simply by us, but basically by anyone and therefore putting data into smaller diskettes so that you can address some of these issues on the desk top or large big tapes if one has the resources to do that as another scholar might.

Mr. HORN. Good. Thank you, Mr. Chairman. I might like to look at the transcript and maybe submit a few questions, if I might.

Mr. CONDIT. Absolutely, without objection. Mr. Owens.

Mr. OWENS. I don't have many questions, Mr. Chairman. I want to congratulate you on a very exciting presentation. You made the figures interesting because they are very informative. A particular concern of mine has always been the lack of prosecution by the Justice Department of people who are involved in the savings and loans swindles, and I wondered if you have any statistics, any correlations of assignments in terms of staffing patterns in U.S. attorneys' offices as it relates to cases related to savings and loans.

Ms. LONG. Again, we do not—have not done analyses to look at the relationship between that, but that would be a very interesting question, and we have been working on putting together a consistent series so you know the cases in that area by district. All of this takes several years of work to do. It is a pretty massive job to get the data together.

Mr. BURNHAM. We are pretty close to having something that we would be able to show you, trends across the Nation on regulatory crimes, a grouping of crimes called regulatory crimes which would include bank fraud, I believe, but there would be other things mixed up in that, so to get a clear handle on one—to get a clear handle on bank fraud requires a lot more work.

Mr. OWENS. I hope that you will be able to devote some of your resources to that whole question of prosecutions on the savings and loan situation. It is a case where clearly it was demonstrated that crime does pay, if the crime is big enough, involves enough people and has enough white collar criminals, it will pay, and they get away with a minimum number of prosecutions, and that still is the case.

Mr. BURNHAM. As one regulator said at the time, the easiest way to rob a bank is to be the president of it.

Mr. OWENS. Exactly.

Mr. CONDIT. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. No.

Mr. CONDIT. You testified that the Federal Government method for allocation is hobbled because it does not have a method of obtaining information on the number of crimes being committed in each district which might potentially result in Federal charges. You also spoke of the limitations of the uniform crime reports.

The question is, what are the crimes which are covered in the uniform crime report?

Mr. BURNHAM. The crimes in the crime report are murder, which is primarily a local matter, rape, robbery, aggravated assault, larceny, auto theft, burglary, and arson. Now, these are all things that can result in Federal charges, if they occur on a Federal reservation, but they are primarily a matter for local law enforcement.

Mr. CONDIT. Is there a way to measure Federal crime? If you were asked to develop an index of Federal crime, how would you do it?

Ms. LONG. I think it would be a big task. It is not something simple. There was research that was started back in the late 1970's, the early 1980's, and, in fact, I was a member of a federally funded research team looking at the measurement of white collar crime, but budgets were cut as well as the support for that area of research.

Mr. CONDIT. Should the allocation of assistant U.S. attorneys take into account the relative complexities of cases and if so, how would you measure the complexity?

Ms. LONG. Again, obviously complexity, if you really want to look at workload in the sense of Federal crimes committed, some kinds of crimes don't take the resources to handle as others, so it would be natural to take a look at complexity, and there are a number of methodologies out there to handle complexity.

I, for example, have been involved in a large study trying to measure the complexity of Federal income tax laws which we all know have some complexity to them, and that methodology surveyed people that deal with the tax law asking them to rate and rank different matters for complexity. Obviously, a similar methodology could be employed here.

Mr. BURNHAM. And probably should be. It would be a good thing to look at.

Mr. CONDIT. Your testimony focuses on the fact that the U.S. attorneys essentially control their caseload when they decide whether or not to prosecute cases, but when the United States is sued, it must also defend those suits. If, as you suggested, populations were the starting point for allocating resources, how would you take into account the cases that have to be defended?

Ms. LONG. You certainly want to look for differences there. That is an area where they do not control caseload, and you should look on a per capita basis and see what the differences are and apply that. You are starting with the staffing-to-population ratio only as the starting point and then as you see different factors that affect what the true demand is for work at that office, you would factor that in.

Mr. CONDIT. Do national prosecutorial priorities have an effect on caseload?

Ms. LONG. They certainly should. It is not always clear that they do.

Mr. BURNHAM. They should. We expect the Attorney General to decide this is an important area that I want to do something and then the next Attorney General comes along with his or her priorities. As I mentioned earlier, however, we found that in the narcotics area, for example, it looks like when the word is handed out from Washington it is not always followed by U.S. attorneys and I am not sure we really want that. I mean exactly. It is a very complicated area. I mean, Wyoming or Montana is a different place than Los Angeles or Brooklyn, and we don't want every U.S. attorney to be doing precisely the same thing.

Mr. CONDIT. Would you agree that the rhetoric here in Washington, DC is that drug trafficking and drugs is a national priority for prosecution?

Ms. LONG. Yes.

Mr. BURNHAM. Yes.

Mr. CONDIT. Do you think we have adhered to that out in the districts?

Mr. BURNHAM. Not in all districts.

Ms. LONG. It is really striking. We were really surprised at what districts pop up, as David was mentioning, in terms of having the highest proportion of their filings, their prosecutions in the drug area. They are not at all the areas that one might expect.

Mr. BURNHAM. You might be surprised, Mr. Chairman, to know that Los Angeles, during the whole 1980's was not very aggressive on pursuing drug cases on a per capita basis. It is among the lower ranking of the U.S. attorneys offices.

Mr. CONDIT. Well, if we matched our rhetoric up with our deeds, how would that change the national distribution of assistant U.S. attorneys?

Mr. BURNHAM. That is too big to answer.

Mr. CONDIT. OK. Any other questions from the committee? The ranking member is here, Mr. Thomas. They have just concluded with a series of questions and their opening statement, but if you have any prepared questions you would like to ask or a statement you would like to make to the first panel, you are welcome to do so.

Mr. THOMAS. I am sorry, Mr. Chairman, to be late. I have been involved. I just want to say that I do think this is an issue of great importance and, of course, as usual we are sensitive to the high altitude, low multitude problems that we have in Wyoming where we have 100,000 miles of territory and a number of Federal installations, and even though we have relatively few people, I think the task is a challenging one, so Mr. Chairman, thank you. I do have a statement. I will put it in the record.

Mr. CONDIT. Without objection. We did have a discussion about Wyoming.

[The prepared statement of Mr. Thomas follows:]

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OPENING STATEMENT
THE ALLOCATION OF FEDERAL PROSECUTORS

October 14, 1993

2247 Rayburn House Office Building

Mr. Chairman, thank you for calling this hearing. The testimony provided today will be helpful in our discussions on how to improve our nation's criminal justice system.

The 94 U.S. Attorney Offices play a special role in this process. They are the primary litigators for the United States government. They carry out the Attorney General's law enforcement goals and, consequently, are responsible for acting on behalf of the federal government in all civil and criminal matters.

There has been some talk about whether or not the U.S. Attorney's offices have been staffed adequately. Some have suggested using population rates as the main variable for allocating resources. While population is certainly a significant characteristic of high crime rates, it has little to do with the amount of offenses committed on federal land. Instead of arbitrarily standardizing the allocation process, I suggest we judge each district on its own individual facts and circumstances. "One-size-fits-all" approaches do not work.

Many Rocky Mountain states, like Wyoming, tend to have thousands of acres of exclusive federal jurisdiction. The federal government owns half of all the land in Wyoming. With a state of nearly 100,000 square miles, that is no small area of federal jurisdiction. For example, the State of Wyoming includes F.E. Warren Air Force Base, the Wind River Indian Reservation, Yellowstone National Park and a substantial amount of BLM and Forest Service lands. There are no local police or prosecutors to investigate and prosecute the crimes committed on these properties. The cases must be investigated federally and prosecuted by the Wyoming U.S. Attorney's office. Despite our small population, the workload is tremendous.

There are many variables which should be taken into consideration, such as criminal and civil caseload, investigative resources, amount of federal jurisdiction and trial activity. Certainly, this list is not exhaustive of all the characteristics that could be used for allocating federal prosecutors. It is, however, representative of each district's unique needs.

Today's hearing will provide a better understanding of the Department of Justice's allocation model. I look forward to hearing from our witnesses on how to improve the 94 U.S. Attorney's Offices and the disbursement of resources throughout our nation's criminal justice system.

Mr. BURNHAM. I want to congratulate you for having the chairman and the ranking members coming from districts at the opposite ends of the scale. It certainly focuses your attention, I am sure.

Mr. CONDIT. Thank you very much. You have been thoughtful and provoking, and your information will be helpful to the Department of Justice. We will follow up at a later date with you. Thank you very much.

Mr. Cook and Mr. Moscato. We have a policy of swearing all witnesses in. You have some additional supporting witnesses with you.

Mr. MOSCATO. Mr. Wayne Rich, who is the Deputy Director of the Executive Office and Miss Kathy Kahoe, who is Deputy Director for Legal Services.

Mr. CONDIT. Welcome to the committee. Raise your right hand.

[Witnesses sworn.]

Mr. CONDIT. Recorded I do. Mr. Moscato, we will begin with you. You are the Director of the Executive Office for U.S. attorneys, U.S. Department of Justice, Washington, DC. Thank you very much for being here and being patient with our interruptions of voting.

STATEMENT OF ANTHONY C. MOSCATO, DIRECTOR, EXECUTIVE OFFICE FOR U.S. ATTORNEYS, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC, ACCOMPANIED BY WAYNE A. RICH, JR., PRINCIPAL DEPUTY DIRECTOR, AND KATHLEEN KAHOE, DEPUTY DIRECTOR FOR LEGAL SERVICES

Mr. MOSCATO. Mr. Chairman, I have submitted a written statement. If I may, I would like to present it in summary form.

Mr. CONDIT. Absolutely, without objection.

Mr. MOSCATO. Mr. Chairman, members of the subcommittee, I am pleased to have the opportunity to appear before you on behalf of the U.S. attorneys. As you know, the U.S. attorneys are the principal litigators on behalf of the U.S. Government. Within each of the 94 Federal districts in the 50 States, Guam, the Northern Marianna Islands, Puerto Rico, and the Virgin Islands, the United States attorney is the chief law enforcement representative for the Attorney General, enforcing Federal criminal law and representing the United States in most of the civil actions brought on behalf of or against it.

In order to accomplish this mission, each U.S. attorney is charged with addressing both the national priorities of the government and the particular needs of his or her own district. For some time now U.S. attorneys have been working increasingly closely with their State and local counterparts, most notably through the law enforcement coordinating committees, to determine the manner in which Federal investigative and prosecutive resources can best be brought to bear to address the districts' problems. Each State and district faces civil and criminal problems that are not only part of the national pattern, but are also unique to their location and population.

When positions are authorized for U.S. attorneys offices, they are allocated in accord first with the intent of Congress, where such intent has been expressed, and then in making the allocations we consider a wide variety of factors. I would just like to briefly list them for you.

We look at the number of sitting and active judges, these are district-specific factors first, the civil and criminal caseload in the district, the number of grand jury hours, the total trials, the number of trials longer than 9 days, the average AUSA work week, and the number of cases handled by each AUSA. The number of staffed branch offices and court-related travel time are a factor, the number of client agents in the district, and their allocation of resources, the individual investigative agency initiatives and any State and local law enforcement initiatives as well.

We also look at the state of law enforcement and prosecutive operations within the individual State in which the district is located. In addition, we look at a number of variables on a national level. We look at the Department's national priorities, the client agency caseload referrals, at our own evaluation reports, and we run a series of evaluations on a continuing basis. We look at existing AUSA allocations, and basically we believe that the process currently in use which relies on a very wide variety of objective and subjective factors provides an accurate picture of the demands placed on the offices and has generally resulted in a fair and equitable distribution of attorney resources throughout the country.

The Department is currently reviewing the allocation of our resources. The Attorney General has indicated three major areas in terms of her priorities: violent crime, major drug networks, and white collar crime. She has also expressed a desire to have U.S. attorneys devote more attention to civil rights and environmental cases. The Attorney General meets on a regular basis with U.S. attorneys who sit on the AG's advisory committee and has discussed Department priorities with this group on several occasions, and there is agreement that priorities must be applied locally under a general Department framework.

Our priorities will, of course, always be a major factor in any future allocation decisions. Thank you for allowing me to address you on these issues. I would be pleased, the three of us, to answer any questions you or the committee may have.

Mr. CONDIT. Thank you very much, Mr. Moscato.

[The prepared statement of Mr. Moscato follows:]

Department of Justice

STATEMENT OF

ANTHONY C. MOSCATO

DIRECTOR

EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS

BEFORE THE

SUBCOMMITTEE ON INFORMATION, JUSTICE,

TRANSPORTATION AND AGRICULTURE

COMMITTEE ON GOVERNMENT OPERATIONS

U.S. HOUSE OF REPRESENTATIVES

CONCERNING

ALLOCATIONS OF UNITED STATES ATTORNEYS

PRESENTED ON

OCTOBER 14, 1993

Mr. Chairman and members of the Subcommittee:

I am pleased to have the opportunity to appear before you on behalf of the United States Attorneys. Accompanying me are Wayne Rich, Principal Deputy Director of the Executive Office for United States Attorneys, and Kathleen Kahoe, Deputy Director for Legal Services.

As you know, the United States Attorneys are the principal litigators on behalf of the United States Government. Within each of the 94 Federal districts in the 50 states, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands, the United States Attorney is the chief law enforcement representative of the Attorney General, enforcing Federal criminal law and representing the United States in most of the civil actions brought on behalf of or against us.

Our mission is to prosecute those who violate our nation's Federal criminal laws, to protect the public from those who would further their private interests at the expense of the general welfare, to protect the legitimate powers of the Federal Government, and to assert affirmatively, through the courts, those national policies established by Congress, the President, and the Attorney General.

In order to accomplish this mission, each United States Attorney is charged with addressing both the national priorities of

the Government and the particular needs of his or her district. For some time now United States Attorneys have been working closely with their state and local counterparts, most notably through the Law Enforcement Coordinating Committees, to determine the manner in which Federal investigative and prosecutive resources can best be brought to bear to address the districts' problems.

At the present time, United States Attorneys supervise approximately 4,100 Assistant United States Attorneys across the country. It is of utmost importance that we carefully deploy those resources and apply them to the most serious problems facing us as a society. Each state and district faces criminal and civil problems that are not only part of a national pattern, but are also unique to its location and population. The citizens of each state and district have a right to expect Federal support to address their unique problems.

When positions are authorized for United States Attorneys' offices, they are allocated in accord with the intent of Congress, where such intent has been expressed. Recently, resources authorized by Congress have been specifically dedicated to addressing certain crime problems. For example, in 1990, resources were authorized for the President's Financial Institution Fraud initiative, the Organized Crime Strike Force merger and violent crime in High Intensity Drug Trafficking Areas (HIDTA). In 1991,

resources were authorized to address criminal and civil aspects of Financial Institution Fraud (FIRREA) and drugs (OCDEF).

In making these allocations, the following process has generally been used:

The United States Attorneys identify their needs in given areas. Their requests are evaluated in light of a variety of factors. Some are district-specific, such as:

- Number of sitting and active judges,
- civil and criminal caseload,
- number of grand jury hours,
- total trials and number of trials longer than nine (9) working days,
- average AUSA work week and number of cases handled per AUSA,
- number of staffed branch offices,
- court related travel time,
- number of client agents assigned to the district,
- investigative agency initiatives, and
- state and local enforcement initiatives.

In addition, a number of other variables may be considered, including:

- National priorities,
- client agency caseload referral and agency manpower projections,
- evaluation reports and recommendations,
- existing AUSA allocations and FTE usage,
- LECC/Victim-Witness and Debt Collection program status, and
- district financial reports, budget submissions for additional AUSA positions, and USA-5 (attorney time information) information.

When new AUSA positions are allocated in compliance with a specific theme mandated either by Congress or the Administration; e.g., FIF, OCDETF or Asset Forfeiture, other appropriate variables are considered and may be given significant weight in arriving at final recommendations, including the percentage of time devoted by civil and criminal AUSAs for the previous fiscal years.

In 1990, the General Accounting Office (GAO) developed a computer model to produce statistical allocations based on case loads and attorney time. This model has been accepted by the Department and it is used in the allocation process.

Based on an analysis of these and other factors, and an examination of additional information received from the Federal Bureau of Investigation, Drug Enforcement Administration, Criminal or Civil Divisions, and/or other interested agencies, recommendations are developed as to the allocation of attorneys to the different districts. These recommendations are developed in concert with the members of the Attorney General's Advisory Committee. Final review and approval of the proposed allocation is made by the Deputy Attorney General, Attorney General, or both.

We believe that the process currently in use, which relies on a variety of objective and subjective factors, provides an accurate picture of the demands placed on the United States Attorneys offices and has resulted in a generally fair and equitable distribution of attorney resources throughout the United States.

We are aware that the Transactional Records Access Clearinghouse (TRAC) report, which forms the predicate for this hearing, suggests that population should be a primary factor in determining allocations. We cannot agree. Districts with similar population size face vastly different prosecutive and investigative issues, both in size and specific content.

In addition, the GAO agrees with our conclusion that population should not be a critical allocation factor. In its 1991 report entitled "U.S. Attorneys: Better Models Can Reduce Resource

Disparities Among Offices," the GAO stated that population was not a significant factor in making allocations. The report states:

> "In our model, we showed (1) that differences in the staffing requirements of offices could be better explained in terms of the workload requirements of the offices (rather than in terms of more tenuously connected variables, such as the urban population of the district) and (2) that differences in the workloads of offices were explainable using relatively few predictor variables. As documented in our report, the closeness of fit of our models to the data appears to corroborate these assumptions." (Emphasis added.)

And the next paragraph of that report states:

> "For example, urban population size is likely to affect staffing requirements only <u>through</u> indicators of workload. If so, adding this variable to factors that already indicate workload would not improve the prediction of attorney time expenditures." (Emphasis in original.)

As the Department and GAO believe that work load is a significant factor in allocations, and for our other purposes in reporting to Congress and the public on United States Attorney Office activities, we track information regarding work load as carefully as we are able. For 1992, the Executive Office for United States Attorneys compiled data on work loads using actual attorney time spent on matters, cases and appeals "handled." A matter is a file on which an Assistant United States Attorney has spent at least one hour of time, but no signficant documents have been filed in court, such as an indictment or information. Cases are files which have been indicted or have had signficant pleadings filed in court. Matters, cases and appeals "handled" were those

pending at the beginning of the fiscal year and those opened during the year.

The Department is reviewing the allocation of our resources carefully. The Attorney General has announced three major areas to which she believes resources should be devoted: Violent Crime/Gangs, Major Drug Networks and White Collar Crime. She has also expressed the desire to devote increased United States Attorney resources to Civil Rights cases and Environmental cases.

The Attorney General meets on a regular basis with the United States Attorneys who sit on the Attorney General's Advisory Committee. She has discussed Department priorities with this group on several occasions. There is agreement that priorities must be applied locally under a general Departmental framework. The Department's priorities will, of course, always be a major factor in any future allocation decisions.

Thank you for allowing me to address you on these issues. I would be pleased to respond to your questions.

Mr. CONDIT. Mr. Cook.

STATEMENT OF DAVID L. COOK, CHIEF, STATISTICS DIVISION, ADMINISTRATIVE OFFICE OF THE U.S. COURTS, WASHINGTON, DC

Mr. COOK. Thank you, Mr. Chairman, members of the subcommittee. I am here today to provide information on the process used by the Judicial Conference of the United States in determining the need for additional judgeships in the U.S. courts of appeals and district courts.

As the Chief of the Statistics Division at the Administrative Office of U.S. Courts, I provide the primary staff support to the committees or the Conference with responsibility for evaluating judgeship needs. I have provided a detailed explanation of the Judicial Conference process in my prepared statement, so I won't go into a great deal of detail at this time.

There are a couple of areas, though, I would like to summarize relating to that process and relating to the issues that you are addressing here today. Every 2 years the Judicial Conference Committee on Judicial Resources, and its Subcommittee on Judicial Statistics conduct a survey of the need for additional judgeships in all the courts. The subcommittee evaluates the requests from individual courts, primarily on the basis of existing caseload.

The Judicial Conference has established guidelines for determining when a court is in need of additional judgeships and each court is evaluated against those guidelines. In district courts the primary standard is 400 weighted filings per judgeship, and in courts of appeals it is 255 merits dispositions per judgeship. Both of these standards are under review at the current time, and could change during the course of the current judgeship survey that the Conference is conducting.

The Judicial Conference adopted the current process in substantial part in 1980. Prior to that time the Conference conducted judgeship surveys every 4 years rather than every 2, and it based at least some of its judgeship recommendations to Congress on caseload projections. The use of caseload projections as a basis for establishing article III judgeships was rejected by Congress in the late 1970's. This prompted the Judicial Conference to change the schedule for evaluating the judgeship needs to the 2-year cycle in order to provide Congress with more up to date recommendations based on the existing caseload.

The Conference and its committees do not use population as an indication of judgeship needs. We found that population does not provide an accurate indication of the caseload on either a local or a national basis. That has been especially true of the criminal caseload, which has fluctuated widely over the years and often is moving in the opposite direction from population. Much of the caseload of the Federal court system is not strictly related to population, but instead to government policy, legislation, local events, or the presence of a particular company or industry in an area.

The Conference also does not use allocation of prosecutors as a primary factor in its evaluation of judgeship needs. The committees do consult with the Department of Justice to determine if there are policy changes and resource allocations which may affect caseloads,

and if so, those factors are considered in evaluating the needs. They are, however, used as secondary factors to caseload in making the determination.

That concludes the summary. I would be happy to answer any questions you might have.

[The prepared statement of Mr. Cook follows:]

STATEMENT OF

DAVID L. COOK
CHIEF, STATISTICS DIVISION
ADMINISTRATIVE OFFICE OF THE U.S. COURTS

BEFORE THE

INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE
SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS
U.S HOUSE OF REPRESENTATIVES

OCTOBER 14, 1993

STATEMENT OF DAVID L. COOK
CHIEF, STATISTICS DIVISION
ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Mr. Chairman and members of the Subcommittee, I am David L. Cook, Chief of the Statistics Division at the Administrative Office of the United States Courts. I have been asked to provide information on the process used by the Judicial Conference of the United States in determining the need for additional judgeships in the U.S. courts of appeals and district courts. In my capacity as division chief, I provide the primary staff support to the committees of the Judicial Conference with responsibility for evaluating the need for additional judgeships. I want to emphasize that the role of the Administrative Office staff in the process is one of support in carrying out the instructions of the committees. The primary responsibility for evaluating judgeship needs rest with the Committee on Judicial Resources and its Subcommittee on Judicial Statistics. Ultimately, the Judicial Conference determines how many additional judgeships to recommend to the Congress. Of course, Congress makes the final determination on the numbers of judgeships; however, the Congress has relied heavily on the Judicial Conference recommendations in that over the course of the last 20 years, Congress has created over 95 percent of all judgeships recommended by the Judicial Conference. In addition, Congress has created approximately 40 judgeships which were not recommended by the Conference during that time. So, the number of judgeships in each court results from a combination of recommendations from the Conference and congressional action.

The process used by the Judicial Conference in developing recommendations for additional judgeships is a relatively simple one which is based primarily on the current workload of the individual courts. Every two years the Conference conducts a survey of judgeship needs. This begins with the individual courts evaluating their situation and providing a justification for any additional judgeships which they feel are required to address the current level of filings. The courts' requests are sent to the Subcommittee on Judicial Statistics, which is responsible for evaluating the requests for additional judgeships on behalf of the Committee on Judicial Resources. Their recommendations are reviewed by the Committee on Judicial Resources, which then forwards its recommendations to the Judicial Conference. The Conference then develops final recommendations for consideration by the Congress.

In evaluating requests from district courts, the Conference has for several years employed a general standard of 400 weighted filings per judgeship per year as a threshold indicator of the need for additional judgeships. Weighted filings are simply an adjustment to the raw number of cases filed based on the expected amount of judge time required of differing types of cases. For example, in the weighting system each social security case is counted as one quarter of a case rather than a full case and each employment civil rights case is counted as 2.6 cases. The Conference and its committees also consider factors such as the rates at which cases go to trial in a district, geographical

characteristics of a district which might contribute to unusual travel requirements, the use of magistrate judges in each court, and the presence of a temporary bulge in the workload. These factors are usually secondary in the evaluation, with the current level of weighted filings as the primary factor.

For the courts of appeals, the Conference uses a similar approach, but does not have a weighting system similar to that which is used in district courts. Even without the weighting system, the Conference still considers the current level of filings as one of the primary factors in recommending judgeships in the courts of appeals. The Conference has in recent years determined the number of cases which are expected to require disposition on the merits in the current year and then applied a standard of 255 dispositions on the merits per judgeship as the threshold indicator of need. The only weighting which has been done in the past is to count each prisoner appeal (habeas corpus and prisoner civil rights) filed as one half of a case rather than a full case. As is the case in district courts, the Conference considers other factors in making its evaluation, but the primary factor is the level of the current caseload.

The Judicial Conference does not project or estimate future caseload in making its evaluation for additional judgeships. In the early 1970's the Conference did employ caseload projections in making its recommendations, which at that time were made every four rather than every two years. In its evaluation, however,

the Congress rejected the use of caseload projections and ultimately established judgeships on the basis of current filings. This prompted the Judicial Conference to change its schedule for evaluating judgeship needs to the two year cycle which is used now in order to provide Congress with more up-to-date information on the needs of the Judiciary. The four year cycle was inadequate for making recommendations on the basis of current caseloads. In addition, the Conference now feels that establishing judgeship positions on the basis of caseload projections is not an appropriate approach, especially during these times of fiscal constraint.

The Conference does not use population or population projections as an indication of the need for additional judgeships because we have not found population to be a reliable indicator of need. Much of the Federal courts' caseload is not strictly related to population but instead to government policies, legislation, local events which may generate cases, and the presence of particular industries or companies. The criminal caseload especially has not been a function of population. During the period from 1970 through 1980 the criminal caseload of the district courts fell 28 percent while the population rose by approximately 12 percent. Between 1980 and 1990, the criminal caseload of the district courts rose by over 50 percent while population rose by only 10 percent. We have seen similar changes in the civil caseload with decreasing caseloads during periods of increasing population. This has occurred, in substantial part,

because of changes in government policies and changes in legislation. While population can play a role in the caseload of the courts, and as a result, the need for judgeships, it is not sufficient to form the basis for recommending additional judgeships in the Federal courts.

Another factor which is not used directly by the Conference in making judgeship recommendations is the allocation or projected allocation of prosecutors. The committees do consult with the Department of Justice to determine policy changes and resource allocations which may have an impact on caseload. This information is, however, secondary to current caseload in evaluating the need for additional judgeships. Changes in policy or changes in allocation of DOJ staff may be used as a factor in courts where the caseload is borderline, but these factors are not sufficient alone to justify recommendations for additional judgeships.

One of the reasons the Judicial Conference does not rely heavily on the placement of prosecutors is because the criminal caseload generated by the prosecutors represents only about 15 percent of the total number of cases filed in the district courts. Most of the remaining caseload is filed by private parties and is not a function of the size or location of DOJ staff.

I have attached a statement which provides a more detailed explanation of the process used by the Judicial Conference in recommending additional judgeships. Another good source of in-

formation on the process is the GAO report GAO/GGD-93-31 *How the Judicial Conference Assesses the Need for More Judges*. I will be happy to provide any additional information which the Subcommittee may find helpful.

PROCEDURES AND STANDARDS USED IN CONDUCTING UNITED STATES COURT JUDGESHIP SURVEYS 1964 THROUGH 1992

I. Background

Prior to 1964, the Federal Judiciary had no systematic approach for soliciting requests for additional judgeships, evaluating those requests, or forwarding recommendations for additional judgeships to Congress. Requests for a Judicial Conference recommendation for additional judgeships were received from local bar associations, the individual courts, circuit councils, and Congress. The Judicial Statistics Committee and the Committee on Court Administration reviewed these requests, made recommendations, and the Judicial Conference forwarded them to each session of Congress. The judgeship recommendations of the Conference usually accumulated in Congress for several years and were periodically handled in omnibus legislation covering the needs of all courts.

In 1964, in an effort to depart from the practice of having Congress act upon requests for additional judgeships only once every eight or nine years, the Judicial Conference adopted a policy of conducting general surveys of judgeship needs on a systematic basis. At the September 1964 session, the Conference took the following action:

> "The Conference discussed the upward trend in the judicial business of the federal judicial system and the growing workload of the courts and voted to adopt a policy of making a comprehensive report to the Congress approximately every four years on the need for additional judgeships and the recommendations of the Conference with respect thereto." (Judicial Conference Report, September 1964, page 52.)

With the reorganization of the Judicial Conference Committee structure in 1969, the Committee on Court Administration became responsible for recommending additional judgeships to the Conference. The Committee's Subcommittee on Judicial Statistics was charged with the responsibility of conducting the judgeship surveys and making recommendations to the full Committee.

In March 1977, the Judicial Conference approved a recommendation from the Committee on Court Administration that surveys of the judgeship needs of the courts be conducted every other year rather than on a quadrennial basis. The Committee felt this change was necessary if the courts were to receive the necessary judge power to enable them to cope with their dockets as well as comply with the requirements of the Speedy Trial Act. (Note: The Subcommittee had already been conducting a judgeship survey

every two years since 1968: courts of appeals surveys in 1970 and 1974 and district court surveys in 1972 and 1976; with the adoption of the 1977 resolution both circuit and district courts would be surveyed together every two years.)

In September 1977, the Judicial Conference granted the Subcommittee on Judicial Statistics discretion in scheduling the first biennial survey. This action was taken because the Congress had not yet enacted an omnibus judgeship bill based on the last survey. In addition, the Subcommittee felt that the 1976 Survey, based in part on workload projections through 1980, should be sufficient to cover the needs of the Judiciary through 1980. Consequently, the Subcommittee on Judicial Statistics delayed the next judgeship survey until 1980. Subsequently, the judgeship surveys have been conducted in 1982, 1984, 1986, 1988, 1990 and 1992.

With the reorganization of the Judicial Conference Committee structure in September 1987, the judgeship survey became the responsibility of the Committee on Judicial Resources. The committee chairman appointed a Subcommittee on Judicial Statistics to review the courts' requests for additional judgeships and to make recommendations to the full committee.

The schedule for the 1992 Survey follows:

August 1991 - The Chairman sent a questionnaire to each chief judge to use in making and justifying requests for additional positions.

December 1991 - The Subcommittee on Judicial Statistics met to review the requests from each court and make preliminary recommendations on additional judgeships needed in each court.

January 1992 - The Subcommittee's preliminary recommendations were distributed to the chief judges and to the circuit judicial councils. The Subcommittee requested the circuit judicial councils to submit recommendations on the judgeship needs of each court within the circuits.

April 1992 - The Subcommittee met to make its final recommendations.

May 1992 - The Subcommittee's final recommendations were distributed to the courts and the Judicial Councils.

June 1992 - The Subcommittee reported its final recommendations to the Committee on Judicial Resources.

September 1992 - The Committee on Judicial Resources submitted its final recommendations to the Judicial Conference, which authorized transmittal to Congress of a request for nine additional courts of appeals judgeships, five permanent and eleven temporary

district judgeships and the conversion of one roving position to permanent in the State of Kentucky.

March 1993 - Draft legislation transmitted to Congress proposing nine additional courts of appeals judgeships, five permanent and ten temporary district court judgeships. [The district of Connecticut withdrew its request for a temporary judge.] The draft bill would also eliminate one roving position shared by the eastern and western districts of Kentucky and locate it in the eastern district of Kentucky.

II. U.S. Courts of Appeals Surveys

A. 1964 Survey

In September 1964, the Committee on Judicial Statistics notified the Judicial Conference that a thorough study of the judgeship needs of the courts of appeals was underway and that it would make recommendations to the Conference in March 1965. In its report, the Committee recommended the creation of only three additional judgeships for the courts of appeals. The recommendations were based on data compiled by the Administrative Office which reflected the workload of each individual court, and comparisons made with all other courts and with national averages.

B. 1967 Survey

In September 1965, the Judicial Conference directed the Committee on Judicial Statistics to undertake another comprehensive survey. This action was taken because of an expected increase in appeals as a result of the additional district judgeships which were created in 1961 and the additional district judgeships recommended by the Conference in March 1965. In conducting this survey, the Committee decided to study the varying practices among the 11 courts of appeals in handling their judicial and administrative workloads. The Committee felt that the information provided by such a study would point out the methods which make operations efficient and the relationship between efficient management practices and a court's need for additional judgeships.

With the aid of a consultant, the Committee conducted a field study of the 11 courts of appeals. On the basis of this study and the workload statistics compiled by the Administrative Office, the Committee recommended that eight additional judgeships be created and that four temporary judgeships be made permanent.

C. 1970 Survey

The 1970 Quadrennial Survey of Judgeship Needs was scheduled to be completed (with Judicial Conference recommendations) in September 1970. However, the

Subcommittee on Judicial Statistics, after reviewing the requests of individual courts and workload data from the Administrative Office, concluded that an accurate assessment of judgeship needs could not be made at that time. The Subcommittee requested and received authorization to continue the study for one more year. During that time, the Subcommittee met three times to consider the judgeship needs of the courts of appeals.

In preparing its final recommendations for the August 1971 meeting of the Committee on Court Administration, the Subcommittee considered the estimates provided by each chief judge as to the number of judges required to handle the projected 1975 workload of their courts. The Subcommittee used a series of eight separate projections of the need for additional judgeships based on varying assumptions relating to the time periods, caseload components, and dispositions per judge. On the basis of these factors, the Subcommittee recommended the creation of 13 additional judgeships in the courts of appeals. The Judicial Conference in October 1971 reduced this number to 10.

In October 1972, however, the Judicial Conference added 1 judgeship recommendation for the Sixth Circuit for a total of 11 additional judgeships.

D. 1974 Survey

The 1974 Quadrennial Survey of the courts of appeals was conducted on schedule even though Congress had not enacted legislation based on the previous recommendations of the Judicial Conference. In conducting the survey, the Statistics Subcommittee considered the recommendations of each circuit judicial council, the trend in filings, and the most recent workload statistics available from the Administrative Office. The Subcommittee also analyzed the eight projections made during the 1970 Survey to determine the accuracy of those projections. On the basis of this information, the Subcommittee recommended that 13 additional judgeships (not the same 13 recommended in 1971) be created in the courts of appeals. In September 1974, the Judicial Conference recommended that 13 additional judgeships be created.

E. 1977 Update

The next quadrennial survey was scheduled for 1978. However, since the Congress had not acted on the previous two surveys conducted by the Judicial Conference and nine years had passed since the creation of new judgeships, the Committee on Court Administration decided in January 1977 to update previous recommendations. The Committee did not conduct a formal survey but instead reviewed current data and prepared tentative recommendations. The updated analysis was transmitted to each chief judge for review and comment. On this basis, the Judicial Conference recommended (in March 1977) that 25 additional judgeships be created in the courts of appeals.

F. 1980 Survey

The Subcommittee on Judicial Statistics began its 1980 Survey in June 1979, by requesting that each chief judge of the courts of appeals complete a questionnaire concerning its judgeship requirements. In making its evaluation, the Subcommittee reviewed the recommendations of the circuit judicial councils and a compilation of six years of statistics prepared by the Administrative Office. Although the Subcommittee did not adopt a specific numerical standard for recommending additional judgeships, it concluded that filings per authorized three-judge panel should not exceed a level of approximately 450. This was not an inflexible standard, but a general guide which was reviewed with other factors such as backlog, number of cases heard, and the impact of vacancies on the court's ability to handle the level of incoming appeals. Workload projections were not used in the 1980 Survey because the Subcommittee felt that all recommendations should be based on current data. Also, Congress had expressed concern over the accuracy of the projections in the prior surveys and, consequently, their use in the judgeship procedure. After reviewing the factors noted above, the Subcommittee recommended 11 additional permanent judgeships and 3 temporary judgeships for the courts of appeals.

G. 1982 Survey

The Subcommittee began the 1982 Survey by requesting that all chief judges complete questionnaires on their courts' needs for additional judgeships. Congress had not yet acted on the Judicial Conference's 1980 recommendations, and so the Subcommittee requested that the courts rejustify the need for those judgeships as well as justify the need for any additional judgeships. After the Subcommittee made preliminary recommendations, each circuit judicial council made a recommendation for its circuit. The Subcommittee reviewed these responses and a six year statistical profile on each court. The Subcommittee's recommendations were primarily based on the level of new appeals filed. Although no specific standard was adopted, it was generally agreed that the level of new appeals should not exceed 450-500 per panel. As a result, the Judicial Conference recommended 22 additional judgeships (including those previously recommended in 1980). (In 1983, the Judicial Conference recommended 2 judgeships for the Fifth Circuit, resulting in a total of 24 judgeships recommended to Congress.)

H. 1984 Survey

Working with Circuit Judge Alvin B. Rubin, the Subcommittee considered modifying the Biennial Survey to include the number and percentage of cases terminated with judicial action prior to submission or hearing; procedural motions requiring judicial attention; substantive motions requiring judicial attention; applications for rehearing or rehearing en banc; signed and unsigned opinions; the number of cases terminated by the district courts in the circuit; and the number of district court judges. The Subcommittee

did not include these items in the 1984 Survey because data on many of them were not available. However, Judge Rubin's suggested factors led to revisions in the appeals statistical system and, eventually, were incorporated into the 1986 judgeship survey.

During the 1984 Survey, the most important factor continued to be the level of new filings. Using 450-500 appeals per judgeship as a general standard, the Judicial Conference recommended 5 additional judgeships over and above the 24 circuit court judgeships created by Public Law 98-353 (effective July 10, 1984).

I. 1986 Survey

For many years, the Subcommittee had tried to develop a bench mark (similar to the 400 weighted filings bench mark for district courts) for its evaluation of judgeship needs in the courts of appeals. During the 1986 Survey, the Subcommittee decided that it would evaluate judgeship needs based on the number of cases which predictably would require disposition on the merits; applying a standard bench mark on a per judge basis to determine the number of judgeships required in each court of appeals. Based on a study done by the Federal Judicial Center, the Subcommittee initially set 255 merits dispositions per judge as the bench mark.

Because of a change in 1985, in the criteria for reporting dispositions on the merits, and a generally increased level of dispositions per active court of appeals judge, the Subcommittee concluded at its December 1985 meeting that the uniform application of a 255 merits disposition bench mark was not appropriate. Therefore, preliminary recommendations were based on the actual average number of dispositions currently achieved by each court's active judges. Several courts strongly disagreed with the Subcommittee's preliminary recommendations. As a result, the Subcommittee reviewed several alternatives and once again decided that the general approach of using predictable dispositions on the merits to determine judgeship needs was the best method. Because of substantial variations among the courts in their current level of merits dispositions, however, a uniform bench mark of 255 per active judge was not feasible. After studying various factors, it appeared that the most influential factor in determining a court's quantitative level of merits dispositions was the volume of prisoner cases. When prisoner cases were discounted by a factor of 50 percent, a bench mark of 255 merits dispositions per active judge was identified as an appropriate starting point for considering requests for additional judgeships. Based on this approach, the Judicial Conference recommended 13 additional circuit court judgeships (including all judgeships previously recommended by the Conference in 1984).

J. 1988 Survey

The 1988 Survey began in August 1987, with a request that all chief judges complete questionnaires on their courts' need for additional judgeships. The Subcommittee on Judicial Statistics reviewed all requests in conjunction with the courts' workload

statistics to make its recommendations. In evaluating requests for additional judgeships from the courts of appeals, the Subcommittee used the procedures and standards adopted during the 1986 Survey. First, after assigning prisoner appeals a weight of 0.5, the Subcommittee determined the number of appeals which were likely to require disposition on the merits. Second, a standard of 255 merits dispositions per judge was used to determine the number of judgeships required in each court. Based on this standard, the Subcommittee recommended 14 additional judgeships (including the 13 previously recommended by the Judicial Conference in 1986) for the courts of appeals. The Committee on Judicial Resources endorsed the recommendation and the Judicial Conference added 2 judgeships and in September 1988 recommended that 16 judgeships be created.

K. 1990 Survey

The 1990 Survey began in August 1989, with all chief judges completing questionnaires on their courts' need for additional judgeships. The Subcommittee on Judicial Statistics reviewed all requests and made its recommendations in conjunction with the courts' workload statistics. The Subcommittee adopted the procedures and standards established during the 1986 Biennial Survey in evaluating these requests. The Subcommittee initially adjusted the caseload by applying a weighting factor of 0.5 for all prisoner appeals and then determined the number of appeals likely to require termination on the merits. A standard of 255 merit dispositions per judge was then used to determine the number of judgeships needed in each court. The Subcommittee also considered other factors noted in the statistics or in the court's response to the survey questionnaire or in the recommendation of the circuit judicial council. Based on this approach, the Subcommittee recommended 20 additional judgeships for the courts of appeals, including all of those recommended by the Judicial Conference in September 1988 with the exception of a request for 3 positions for the Eleventh Circuit which was withdrawn by the court. In June 1990, the Judicial Conference recommended that 20 judgeships be created.

L. 1992 Survey

In August 1991, the chairman of the Subcommittee on Judicial Statistics sent a questionnaire to each chief judge to use in making and justifying requests for additional positions. The Subcommittee met in December to review the requests from each court and make preliminary recommendations on additional judgeships. The Subcommittee's preliminary recommendations were distributed to the chief judges and to the circuit judicial councils in January 1992. The Subcommittee requested the circuit judicial councils to submit recommendations on the judgeship needs of each court within the circuits. In April 1992, the Subcommittee met to make final recommendations to the Committee on Judicial Resources.

The Subcommittee received requests from four courts of appeals for a total of 10 additional judgeships. In evaluating the requests, the Subcommittee used the same standard which was adopted during the 1986 Survey and used in all succeeding surveys. That primary measure is the estimated number of cases which would require disposition on the merits; after applying a weighting factor of 0.5 to all prisoner appeals, the Subcommittee used a standard of 255 merits dispositions per judgeship to determine the number of judgeships required in each court. In addition to this standard, the Subcommittee considered other factors in the workload data and in the courts' responses to the survey questionnaire. Using this approach all but one position requested by the courts, and recommended by the Subcommittee on a preliminary basis, were justified. The Subcommittee concluded that there was a need for 9 additional judgeships in the courts of appeals. The 9 positions were recommended by the circuit judicial councils and include 6 out of the 9 positions recommended in the last Survey which were not included in the last judgeship act (the other 3 were not requested by the courts during this Survey).

At its September 1992 meeting, the Judicial Conference authorized transmittal to Congress of a request for 9 additional courts of appeals judgeships. In October, the Ninth Circuit Judicial Council voted to make a formal emergency request for 10 additional judgeships for the Ninth Circuit Court of Appeals.

The Subcommittee met in December 1992 and recommended that the 1992 Biennial Survey of Judgeship Needs be reopened to include the Ninth Circuit's request; the Subcommittee approved all positions requested. The Judicial Resources Committee also approved the Ninth Circuit's request. However, the Judicial Conference in March 1993 deferred until its September meeting consideration of the Ninth Circuit's request. The Judicial Conference referred to the Long Range Planning Committee, in consultation with other committees as appropriate, for study and report to the September 1993 Judicial Conference, the question of whether the size of the federal judiciary should be limited.

III. U.S. District Courts Surveys

A. 1964 Survey

As a result of the Judicial Conference action in 1964, the Committee on Judicial Statistics began the first comprehensive study of the judgeship needs of the Federal courts. The Committee directed the Administrative Office to assemble data for all districts except those few which clearly had no need of additional judgeships. The Committee further requested that data be compiled for making relative comparisons among districts as well as depicting individual aspects of the workload such as weighted caseload, cases pending, cases terminated, trial days, time intervals from issue to trial, and comparisons of these factors to national averages. In conducting the evaluation, the Committee did not refer to a specific statistical standard against which all districts were measured. The Committee did, however, make extensive use of comparisons with the

national workload averages. On the basis of this data, the Committee recommended 24 additional permanent and 6 temporary judgeships in March 1965 and the Conference approved this recommendation.

B. 1968 Survey

The second district court survey conducted under the authority of the 1964 Conference resolution was concluded in September 1968, with recommendations for 66 permanent and 1 temporary judgeship and conversion of 4 temporary judgeships to permanent positions. In conducting the survey, the Committee on Judicial Statistics reviewed extensive background data covering a period of seven to ten years for all district courts. The factors focused upon by the Committee were the nature and extent of the accumulation of cases and the rate of attrition in the build-up of any backlog, the rate of dispositions as an aspect of overall judicial performance, trends in case filings, and the weighted caseload per judgeship. The Committee also included a factor of projected workload in recognition of the policy of reviewing judgeship needs only once every four years. The Committee made its recommendations on the basis of these factors and the recommendations of both the circuit judicial councils and the individual district courts.

During the 1968 Survey, the Committee on Judicial Statistics did not establish a specific statistical standard on which to base its recommendations. It did, however, make extensive use of comparisons of the district courts with the national averages for those factors listed above.

C. 1972 Survey

In conducting the Quadrennial Survey in 1972, the Subcommittee on Judicial Statistics reviewed a compilation of six years of statistical data for each district court which requested additional judgeships. Some of the factors focused on by the Subcommittee were the nature and volume of case filings, weighted filings, terminations, backlog, and the number of trials and trial days per judgeship. The Subcommittee also made extensive use of four methods of projecting filings for 1976.

The following excerpt from the Subcommittee's report of August 1, 1972 to the Committee on Court Administration provided the general basis for the Subcommittee's evaluation of judgeship needs:

> "In general, the Subcommittee considered that an additional judgeship should be recommended when the 1976 projected filings per judgeship reached 400 or more, but that no additional judgeship would be warranted if the 1976 projected filings fell below the current national aver-

age (341 filings in 1971). This formula, however, was not applied inflexibly."

This survey was the first in which a specific statistical standard was employed in developing judgeship recommendations. A level of 400 filings per judgeship was established on the basis of the personal experience of the members of the Subcommittee and their evaluation of the statistics from districts which were in obvious need of additional judgeships. The members concluded that their own caseloads were manageable as long as the number of cases on their dockets did not exceed 380-390. They were able to maintain a relatively current docket until the number of cases exceeded 400. The members also observed that other judges of their respective courts had similar experiences in dealing with their dockets.

On the basis of both the statistics available during the 1972 Survey and the requests of individual courts, the Subcommittee also concluded that many of the courts began to experience difficulties in maintaining current dockets when their per judge caseload reached that 400 level. As a result of these observations, the Subcommittee set 400 filings per judgeship as a general guide in reviewing requests for additional judgeships. This level was not applied as an inflexible standard but was used as a starting point for reviewing all other factors such as case mix, pending backlog, trial time, and geographical factors.

The 400 filings standard was a departure from the past practice of using national averages as a guide. The use of projected filings was also a significant change from previous surveys. Projections were included in the 1968 Survey but the recommendations were not justified specifically on that basis. The 1972 Quadrennial Survey resulted in recommendations for 51 additional judgeships and for 1 temporary judgeship to be made permanent.

D. 1976 Survey

The 1976 Quadrennial Survey of Judgeship Needs was conducted on schedule even though Congress had not acted on the recommendations resulting from the 1972 Survey. In conducting the 1976 Survey, the Subcommittee on Judicial Statistics proceeded in much the same manner as it did in 1972. The Subcommittee considered the recommendations of the districts and circuit councils, a compilation of six years of statistical data, and workload projections for each district court. In general, the Subcommittee used the same standards as those used in 1972. The most significant of these standards was an annual rate of filings or projected filings in excess of 400 per authorized judgeship. By coincidence, the national average rate of filings per judgeship in 1975 (the last full year of data included in the survey) was 402. The 400 standard used by the Subcommittee, however, did not relate to the national average but to the standard developed in 1972. The 1976 Quadrennial Survey resulted in recommendations for 106 additional permanent district judgeships and 1 temporary judgeship.

E. 1980 Survey

During the 1980 Survey, the Subcommittee on Statistics studied the judgeship needs of all district courts. The Subcommittee took into consideration the number of unweighted filings, the types of cases making up the workload, weighted filings, pending cases, the number of trials (particularly those which lasted for ten days or more), the assistance provided by magistrates, geographic characteristics, and vacancies. The Subcommittee established a general guideline of 400 weighted filings per judgeship (instead of 400 raw filings per judgeship) as an indicator of the need for additional judgeships. Again, this was not an inflexible standard but simply a starting point for reviewing all other factors which impact on judgeship needs. Projections were not employed in the 1980 Survey because both the Subcommittee and Congress felt strongly that all judgeship recommendations should be based on current need. Additionally, since the survey was now being conducted every two years, there was no longer a great need for projections of workload. The 1980 Judgeship Survey resulted in recommendations for 23 additional permanent judgeships and 6 temporary positions.

F. 1982 Survey

At its December 1981 meeting, the Subcommittee discussed the fact that some judges felt the survey should employ some sort of actuarial data which would take into account a court's available judge power as well as the number of authorized judgeships. The Subcommittee rejected the use of actuarial data, however, because it would complicate rather than improve the judgeship process.

The Subcommittee reviewed all information submitted by the chief judges of the districts, the Judicial Councils, and the calendar year 1981 statistics prepared by the Administrative Office. In making its decisions on the need for additional judgeships, the Subcommittee considered the level of new case filings, the case mix, the level of the weighted caseload, the pending caseload, and the length of trials. The Subcommittee generally concluded that weighted filings in excess of 400 per authorized judgeship indicated a need for additional judgeships. In the absence of that level of weighted filings, the Subcommittee considered the number and frequency of long trials and unique geographical problems which might justify a departure from that standard. The level of the pending caseload was used only in considering a recommendation for a temporary judgeship. As a result, the Judicial Conference recommended 43 permanent judgeships, 8 temporary judgeships, and that 2 temporary judgeships be made permanent (including those judgeships previously approved in 1980).

G. 1984 Survey

In formulating its recommendations for additional district court judgeships, the Subcommittee reviewed the questionnaires and supporting material submitted by the courts and Judicial Councils, and the calendar year 1983 workload statistics. The

Subcommittee considered the level of new filings, the level of weighted filings, the mix of cases, the number of pending cases, and the length of trials. The Subcommittee also considered whether and how to take into account magistrate activity when evaluating requests for additional judgeships. There was, however, too much variance from court to court on how magistrates are used to accurately measure the amount of judge time saved if an additional magistrate was authorized.

The Subcommittee again employed 400 weighted filings per judgeship as the level at which a court deserved consideration for additional judgeships. Where the weighted caseload for a court had consistently exceeded 400 per judgeship for the last several years, or where the weighted caseload had increased steadily and exceeded 400 per judgeship in the last year or two, the Subcommittee recommended additional permanent judgeships. In the absence of a sustained level of weighted filings of 400 per judgeship, the Subcommittee recommended additional permanent judgeships only if factors such as lengthy trials, unusual geographical problems, or particularly difficult travel requirements were present.

The Subcommittee recommended additional temporary judgeships in districts where the weighted filings had reached the 400 per judgeship level but had not been sustained for a period of years, or where the court's backlog had grown to a level which could not be absorbed by the existing complement of judges. The Subcommittee also recommended temporary judgeships in situations where the court's justification for additional judgeships was based on case types which were not expected to continue at current levels, such as social security or asbestosis cases.

The Judicial Conference recommended 26 permanent judgeships, 16 temporary judgeships, that 4 temporary judgeships be converted to permanent judgeships, and that 3 roving judgeships be made permanent in one district. This was over and above the district court judgeships (53 permanent, 8 temporary, and 2 temporary made permanent) created by Public Law 98-353 (effective July 10, 1984).

Since the Judicial Conference has recommended that diversity jurisdiction be abolished in the Federal courts (see March 1977 Conference Report, pg. 8-9), the Subcommittee felt it was important that Congress be aware of judgeship needs if diversity jurisdiction were eliminated. The Subcommittee, therefore, provided alternative judgeship recommendations if diversity jurisdiction were eliminated.

H. 1986 Survey

After reviewing the responses to the district court questionnaires, the Judicial Council recommendations, and the six-year statistical profiles for each court (updated through calendar year 1985), the Subcommittee made its recommendations for additional judgeships. Again, a level of approximately 400 weighted filings per judgeship was used as a primary indicator that additional judgeships are required. The Subcommittee also

adopted the following policies while evaluating judgeship requests from the district courts:

1. With the uncertainty of the future of asbestos litigation, the Subcommittee decided to recommend temporary judgeships in districts where the justification for additional judgeships was based, in substantial part, on the presence of a large number of newly filed or pending asbestos cases.

2. The Subcommittee had received requests from several courts to recommend that a temporary judgeship be converted to a permanent position. Since all the temporary positions created by the 1984 Judgeship Act would not expire until at least 1989, the Subcommittee recommended against conversion of most of these positions because the members felt it was premature to recommend conversion at this time. During the judgeship survey of 1988, the Subcommittee would review the current workload statistics and decide, at that time, if there is justification for converting these positions.

3. In the past, the Subcommittee recommended additional permanent judgeships when a district's weighted caseload exceeded 400 per judgeship for several years. In many courts, the additional judgeship resulted in a caseload substantially below both the 400 level and the level in most other district courts. In making its recommendations during the 1986 Survey, the Subcommittee recommended temporary judgeships rather than permanent ones in districts where the additional judgeships would result in weighted filings below 400 per judgeship.

4. The Subcommittee for the first time considered the possibility of recommending reductions in the number of judgeships in courts where it is clear that the loss of a position would not increase the per judgeship workload levels to an unacceptable level. (The Subcommittee and the Committee on Court Administration recommended the reduction of one judgeship in Delaware. The Judicial Conference, however, did not endorse this recommendation.)

The Judicial Conference recommended 40 permanent judgeships, 16 temporary judgeships, that 1 temporary judgeship be converted to a permanent position, and that 4 roving judgeships be made permanent in one district (including most of the judgeships previously recommended by the Conference in 1984).

The Subcommittee once again provided alternative district judgeship recommendations to demonstrate the impact of abolishing diversity jurisdiction on the courts' needs for additional judgeships.

I. 1988 Survey

The Subcommittee's recommendations for the district courts were based on the court's response to the judgeship survey questionnaires and workload statistics from the Administrative Office. The Subcommittee again considered a level of weighted filings in excess of 400 weighted filings per judgeship as a threshold indicator of the need for additional judgeships; however, the following policy decisions were adopted while evaluating the courts' requests:

1. In the past, the Subcommittee had recommended additional judgeships when a district's weighted caseload exceeded 400 per judgeship for several years. During the 1988 Survey, an additional judgeship in many courts resulted in a caseload which was substantially below the 400 level. In making its recommendations, the Subcommittee generally decided to recommend permanent judgeships in only those districts where an additional judgeship resulted in weighted filings that were still above 400 per judgeship. In courts where an additional judgeship resulted in weighted filings slightly below 400 per judgeship, the Subcommittee recommended a temporary judgeship. In courts where an additional judgeship resulted in weighted filings substantially below 400 per judgeship, the Subcommittee recommended no additional judgeships.

2. Many requests for additional judgeships were based, in substantial part, on a large number of asbestos filings or pending asbestos cases. Since the future of asbestos litigation remained uncertain, the Subcommittee recommended only temporary judgeships in those districts.

3. No temporary positions were recommended solely on the basis of a court's backlog.

4. The Subcommittee re-evaluated all the judgeship positions previously recommended by the Judicial Conference in 1986. If the court's workload remained high and the court's response to the judgeship questionnaire continued to justify the previously recommended position, the Subcommittee again recommended the position. If, however, circumstances had changed and the current workload had declined to the point where the additional position would result in weighted filings substantially below 400 per judgeship, the Subcommittee felt that the position was no longer justified and, consequently, did not recommend it in the 1988 Survey. In some cases, a temporary position was recommended in place of a permanent position that had been recommended in 1986.

5. The Subcommittee recognized that the temporary judgeships created by the 1984 Judgeship Act could expire as early as July 1989, before the

completion of the next survey in 1990. Therefore, if the court's workload remained high and the court's response to the questionnaire justified the retention of the temporary position, the Subcommittee recommended that the temporary position be converted to a permanent position.

Based on these policy decisions, the Subcommittee recommended 37 permanent judgeships, 20 temporary judgeships, 6 temporary judgeships be made permanent, 4 roving judgeships be made permanent in one district, and 1 roving judgeship be split equally between only 2 of Oklahoma's 3 districts. (This includes some, but not all, of the judgeships previously recommended by the Judicial Conference in 1986.) The Committee on Judicial Resources concurred with all of the Subcommittee's recommendations. The Judicial Conference added 2 permanent judgeships and 1 temporary judgeship for a total of 39 permanent judgeships, 21 temporary judgeships, 6 temporary judgeships to be made permanent and 4 roving judgeships be made permanent in their recommendations of September 1988.

Once again, the Subcommittee provided alternative recommendations based on the abolition of diversity jurisdiction. If diversity jurisdiction cases were excluded from the courts' workload, the Subcommittee would have recommended only 2 permanent judgeships, 11 temporary judgeships, that 2 temporary judgeships be made permanent, and that 2 roving judgeships be made permanent in one district.

For the first time, the Subcommittee also provided alternative recommendations based on eliminating only in-state plaintiff diversity cases. If these cases were excluded from the courts' workload, the Subcommittee would have recommended 11 permanent judgeships, 27 temporary judgeships, that 6 temporary judgeships be made permanent, that 3 roving judgeships be made permanent in 1 district, and that 1 roving judgeship be split equally between only 2 of Oklahoma's 3 districts. (This includes some, but not all, of the judgeships previously recommended by the Judicial Conference in 1986.)

J. 1990 Survey

The recommendations made by the Subcommittee for the district courts were based on the court's response to the judgeship survey questionnaire and workload statistics from the Administrative Office. The threshold indicator of the need for additional judgeships was again 400 weighted filings per judgeship. The Subcommittee also reviewed workload data for calendar year 1989 and the five previous reporting years as well as materials submitted by the districts and Judicial Councils. In addition, the following policy decisions were used in evaluating the courts' requests:

1. The Subcommittee concluded that an additional permanent judgeship was justified if the court's current weighted filings were sufficiently in excess of 400 per judgeship that the addition of a position would not result in weighted filings below 400 per judgeship. If a court's workload met the

standard of weighted filings above 400, but the addition of a position would result in weighted filings slightly below 400 per judgeship, the Subcommittee recommended a temporary judgeship. If a court's current weighted filings were below 400 per judgeship, the Subcommittee recommended no additional positions unless there were unique circumstances which justified departure from the general standards. These guidelines were used as a point of departure for considering other pertinent factors such as geography, a large and continuing complement of senior judges, and the mix of cases.

2. Many requests for additional judgeships were based, in part, on a large number of asbestos filings or pending asbestos cases. Since the future of asbestos litigation remained unclear, the Subcommittee recommended only temporary judgeships in those districts.

3. No temporary positions were recommended solely on the basis of a court's backlog.

Based on these policy decisions, the Subcommittee concluded that there was a need for 76 additional district judgeships (47 additional permanent judgeships and 29 temporary judgeships), the extension of 1 existing temporary position for an additional 5 years, and the conversion of 6 temporary positions to permanent. The total includes 58 positions recommended by the Judicial Conference in 1988, but excludes 2 positions because the courts' recent workloads no longer supported the positions, or the courts had withdrawn their requests. In a few situations, the workload had decreased significantly and justified only a temporary instead of a permanent position. In addition to the new positions, the Subcommittee also concluded that four positions authorized to serve more than one district should be converted to serve a single district only. The Committee and the Judicial Conference agreed with the Subcommittee's recommendations.

Once again, the Subcommittee provided alternative recommendations based on the elimination of diversity jurisdiction on judgeship requirements. If diversity jurisdiction were abolished, the judgeship requirements would be reduced to 19 (6 permanent and 13 temporary) additional judgeships and the conversion of two existing temporary judgeships to permanent positions.

As in 1988, the Subcommittee also provided alternative recommendations based on eliminating only in-state plaintiff diversity cases. If these cases were excluded from the courts' workload, judgeship requirements would be reduced to 42 (20 permanent and 22 temporary) positions.

K. 1992 Survey

A total of 21 districts submitted requests for a total of 23 additional permanent judgeships, the conversion of 2 temporary positions to permanent and the conversion of 2 existing roving judgeships to permanent in only one district. After considering the Subcommittee's preliminary recommendations, the circuit judicial councils recommended 9 permanent judgeships, 8 temporary judgeships, the conversion of 1 temporary position to permanent and the conversion of one roving position to permanent in only one district.

In evaluating the requests for additional district court judgeships, the Subcommittee used the standard of 400 weighted filings per judgeship as the threshold indicator of a need for additional positions. This standard has been used by the Judicial Conference for every Survey since 1980. In making its evaluation, the Subcommittee reviewed workload data for calendar year 1991 and the trends over the previous 5 years as well as the justifications provided by the courts themselves and their circuit judicial councils. The Subcommittee recommended a permanent position where a court's current weighted filings were sufficiently in excess of 400 per judgeship that the addition of a position would result in weighted filings that were still in excess of 400 per judgeship. If the addition of a position resulted in weighted filings slightly below 400 per judgeship, the Subcommittee recommended a temporary position. A temporary position was also recommended where the court's need was based in large part on a significant number of asbestos cases or other relatively short-term workload situation. Where a court's weighted filings were below 400 per judgeship, the Subcommittee recommended no additional positions unless there were special circumstances, primarily a heavy criminal caseload, which justified departure from the general standard.

On the basis of this procedure, the Subcommittee concluded that there is a need for 16 additional district judgeships (5 permanent and 11 temporary) and for one rover to be made permanent in one district. In September 1992, the Judicial Conference authorized this request to be transmitted to Congress. Included in this total are 6 positions recommended by the Judicial Conference in the last Survey but not authorized in the last omnibus judgeship act. In March 1993, the district of Connecticut withdrew its request for a temporary judgeship. This change was reflected in the draft bill transmitted to Congress proposing 5 permanent and 10 temporary district judgeships and one rover to be made permanent in one district.

After the 1992 Biennial Survey was completed, the Subcommittee received two requests for additional judgeships. The districts of Alaska and the Southern District of California each requested one additional permanent judgeship. The district of Oregon in April 1993 requested the Judicial Conference to change its recommendation for a temporary judgeship to an additional permanent one.

. Other Issues

A. Late and Emergency Judgeship Requests

The Subcommittee on Judicial Statistics has adopted the policy of recommending additional judgeships only during the routine biennial judgeship surveys. To consider individual requests outside the surveys would only disrupt and perhaps even nullify the systematic procedure for requesting additional judgeships. Late judgeship requests, therefore, are not acted upon until the next judgeship survey.

Requests for additional judgeships on an emergency basis, however, are considered and approved if a convincing argument of emergency need is made. For example, in 1972 the Subcommittee recommended an additional temporary judgeship for the Western District of Wisconsin because of its high rate of filings per judgeship (ranked first nationwide) and growing backlog of pending cases per judgeship (ranked second nationwide). It must be stressed that the Subcommittee will only approve late judgeship requests when a "certifiable emergency" exists. Other situations where there does not appear to be a breakdown in the administration of justice (such as a rise in asbestos cases) do not provide sufficient justification for emergency relief and the courts are required to wait and prove their case during the next survey.

B. Roving Judgeships

Roving judges split their time between two or more districts. Historically, the Administrative Office has statistically allocated the services of roving judges equally among the districts they serve. Some chief judges have criticized this approach because their districts have not received an equal share of the roving judges' services. The Subcommittee, appreciating that the Administrative Office needs an official designation of roving judgeship allocation, adopted the following policy at its May 1973 meeting:

> "In the absence of specific allocation of a roving judge's duties by statute or by the circuit council, the subcommittee recommends that the Administrative Office continue to compile and report the statistics of the districts served by a roving judge on the premise that his services are divided equally among the districts to which he is assigned. Where the time of a roving judge is allocated in some other manner on an annual basis by statute or by action of the circuit council, the statistics should reflect this allocation."

Such an official designation has occurred in only one state. Effective July 1, 1982, the Judicial Council of the Tenth Circuit changed the allocation of the two roving judges for the three districts in the state of Oklahoma. As a result of the Council's action, the two roving judgeships were distributed as follows: 1.25 judgeships to

82-167 O - 94 - 4

Oklahoma, Western; 0.40 to Oklahoma, Northern; and 0.35 to Oklahoma, Eastern. Effective July 1, 1989, the distribution was changed to 2.67 judgeships to Oklahoma, Northern, 1.33 to Oklahoma, Eastern, and 5.0 to Oklahoma, Western.

As of result of the 1990 Judgeship Act, one of the two roving judgeships in Oklahoma previously authorized to serve all three districts was made a judgeship for the Western District only. With a total of 11 authorized judgeships the distribution is as follows: 3.67 to Oklahoma, Northern; 1.33 to Oklahoma, Eastern; and 6 to Oklahoma, Western. The Northern and Eastern districts of Oklahoma share the remaining rover.

C. Temporary Judgeships

Prior to 1990, temporary judgeships were recommended only when the basis for a court's justification for additional judgeships was not expected to continue beyond a short period of time (e.g. a rise in asbestos cases). In recent years, there has been some controversy on when a "temporary" judgeship position expires. Prior to the 1984 Judgeship Act (P.L. 98-353), an authorized temporary judgeship position expired with the first vacancy occurring in the office of district judge after the expiration of a named time period from the date of its creation. For example, the language used in the 1978 Judgeship Act (P.L. 95-486) reads, "The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act shall not be filled."

The 1984 Act, however, contained the following language: "the first vacancy in each of the offices of district judge authorized by this subsection, occurring five or more years after the effective date of this Act, shall not be filled." This has been interpreted as meaning that if the judge appointed to fill the temporary position remains on the court 30 years, the temporary position lasts 30 years no matter how many vacancies occur in other positions on that court during that period of time.

In response to the above interpretation, the Subcommittee has stated the following:

> "A temporary judgeship is one which will expire with the first vacancy occurring on the court after the expiration of five years from the date of creation. While there has been some suggestion that the expiration in question must be that of the newly created judgeship, our Subcommittee's recommendations to the Judicial Conference (and ultimately to the Congress) are based on the former interpretation."

The 1984 language was also used in H.R. 5357 (introduced August 7, 1986) which was a bill to provide temporary additional judicial resources to conduct trials of criminal drug cases. Although the bill died in the House Judiciary Committee, it

highlighted the fact that Congress and the Judicial Conference need to reach an agreement over the duration of temporary judgeships.

The 1990 Judgeship Act made all 1984 temporary judgeships permanent and created 13 temporary judgeships using the following language:

> "The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the effective date of this title, shall not be filled."

The draft legislation called the "Federal Judgeship Act of 1993," sent to Congress in March 1993, proposes creating ten temporary district court judgeships in the following states: Alabama, Middle; Arizona; Louisiana, Middle; North Carolina, Western; New York, Eastern; New York, Western; Ohio, Northern; Oregon; Pennsylvania, Eastern; and South Carolina. The language refering to temporary judgeships in the draft 1993 legislation is the same as the 1990 Judgeship Act.

Table A
Summary of Judicial Conference
U.S. Courts of Appeals Judgeship
Recommendations and Resulting
Congressional Action

Judicial Conference Action		Congressional Action		
Date	Number of Judgeships Recommended	Date	Number of Judgeships Created	Public Law
March 1965	3	March 18, 1966	6, plus 4 temporary	89-372
March 1967	8 and 4 temporary to permanent	June 18, 1968	9 and 4 temporary to permanent	90-347
October 1971	10	-	-	-
October 1972	11	-	-	-
September 1974	13	-	-	-
March 1977	25	October 20, 1978	35	95-486
September 1980	11 and 3 temporary	-	-	-
September 1982	22	-	-	-
March 1983	24	July 10, 1984	24	98-353
September 1984	5	-	-	-
September 1986	13	-	-	-
September 1988	16	-	-	-
June 1990	20	December 1, 1990	11	101-650
September 1992	9	-	-	-

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Table B
Summary of Judicial Conference
U.S. District Courts Judgeship
Recommendations and Resulting
Congressional Action

Judicial Conference Action		Congressional Action		
Date	Number of Judgeships Recommended	Date	Number of Judgeships Created	Public Law
March 1965	24, plus 6 temporary	March 18, 1966	30, plus 5 temporary	89-372
September 1968	66, plus 1 temporary, and 4 temporary to permanent	June 2, 1970	58, plus 3 temporary, and 4 temporary to permanent	91-272
September 1972	51, plus 1 temporary to permanent	-	-	-
September 1976	106, plus 1 temporary	October 20, 1978	113, plus 4 temporary	95-486
September 1980	23, plus 6 temporary	-	-	-
September 1982	43, plus 8 temporary, and 2 temporary to permanent	July 10, 1984	53, plus 8 temporary, and 2 temporary to permanent	98-353
September 1984	26, plus 16 temporary, 4 temporary to permanent, and 3 rovers made permanent in one district	-	-	-
September 1986	40, plus 16 temporary, 1 temporary to permanent, and 4 rovers made permanent in one district	-	-	-

Table B
Summary of Judicial Conference
U.S. District Courts Judgeship
Recommendations and Resulting
Congressional Action

Judicial Conference Action		Congressional Action		
Date	Number of Judgeships Recommended	Date	Number of Judgeships Created	Public Law
September 1988	39, plus 21 temporary, 6 temporary to permanent, and 4 rovers made permanent in one district	-	-	-
June 1990	47, plus 29 temporary, 6 temporary to permanent, 4 rovers made permanent in one district, and one temporary extended 5 more years	December 1, 1990	61, plus 13 temporary, 8 temporary to permanent, 4 rovers made permanent in one district	101-650
September 1992	5, plus 10 temporary, 1 rover made permanent in one district*	-	-	-

*In March 1993, Connecticut withdrew its request for one temporary which Judicial Conference had recommended; draft bill sent to Congress in April 1993 included only 10 temporary positions.

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AUTHORIZED JUDGESHIPS IN THE FEDERAL JUDICIARY				
JUDGES	1983	1988	1991	1992
Judges:				
Circuit Courts	132	156	167	167
Seniors	55	50	66	73
District Courts	515	575	649	649
Seniors	175	178	204	224
Federal Circuit	12	12	12	12
International Trade	9	9	9	9
Federal Claims	16	16	16	16
Bankruptcy	232	284	291	326
Magistrate (full-time)	248	300	354	374
Part-time	217	162	112	100
Total	1,611	1,742	1,880	1,950

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Mr. CONDIT. Thank you, Mr. Cook.

Do your support witnesses want to make a statement, Mr. Moscato?

Mr. MOSCATO. No.

Mr. CONDIT. Mr. Moscato, I would like to first ask a few questions about selected U.S. attorney offices. TRAC characterizes the per capita level of prosecutors in three of the four California districts as comparatively low. You testified that a variety of factors are taken into account in making staffing decisions and that these result in staffing patterns being generally fair and equitable.

Mr. MOSCATO. We like to think so.

Mr. CONDIT. And there are different prosecutive and investigative issues that face these offices, that is your comment in your testimony. The question—could you please take a few minutes to explain the different prosecutive and investigative issues which have led to the staffing patterns in California and why they are, in your opinion, fair?

Mr. MOSCATO. Let me take the central district, if I can, unless you would like——

Mr. CONDIT. Let me start with the eastern district which ranks 83d in the Nation and has 8 prosecutors per million, and the central district of Los Angeles which ranks 55, 13 prosecutors per million. I mean, if you could respond to that. Has anyone in the—maybe you could just start with those two cases.

Mr. MOSCATO. OK. Over the last half decade, for instance, the central district has had a significant increase in resources. It has been the period of time during which the offices in general, I think, between 1988 and 1992 grew overall approximately 50 percent. Central district of California grew approximately 83 or 84 percent in terms of the assistants allocated through a variety of factors. We got allocations during that period for organized crime and drug enforcement task force attorneys and financial institution fraud attorneys, and went through allocation processes in which we looked at the number of investigative agents assigned, the existing caseload, as I said the factors that give us some sense of the office and of the current and existing workload levels, and then made allocations to those districts based upon the identified caseload and as best we could where they were going with it.

Mr. CONDIT. Well, growing still doesn't explain the big difference comparatively with others. I mean——

Mr. MOSCATO. The TRAC figures, I will note for you, Mr. Chairman, tend to—I don't want to use the word overstate, but when you are dealing with very small bases in small districts you don't have to add a lot of people before you start to get significant percentage increases, and conversely where you start with relatively large districts, even a significant increase in absolute numbers will only reflect a relatively smaller percentage figure, so that, in fact, in most of the major districts, larger districts there have been significant enhancements, but they don't show the same percentage impact as you will get if you have added a relatively few number of assistants in a very small district.

Mr. CONDIT. Is that because population grows substantially in—for example, the central district of Los Angeles, the population

growth has been phenomenal the last few years, but you still remain, you know, relatively low in——

Mr. MOSCATO. I am sorry, sir, what I was trying to say perhaps inartfully was if you start with a base of 110 assistant U.S. attorneys and add 90, that is in terms of a percentage change relatively smaller than if you start with a base of 7 assistants and add 10 more. By that time you are up over 100 percent. You have only increased the number of assistants in that district by 10 relative to the 90 in a much larger district, but you are showing a higher percentage of change, sir.

Mr. CONDIT. Has anyone in the central district office argued that it was understaffed?

Mr. MOSCATO. The U.S. attorney in the central district of California has argued that he is understaffed. I will note he is by no means alone. Most U.S. attorneys argue from time to time, that, in fact, they are understaffed for one or another reasons. I think were you to have a panel of U.S. attorneys here they would pretty uniformly tell you they could use more resources. The reasons given the district might be different, but the needs they can articulate very clearly.

Mr. CONDIT. What about the northern district, which ranks 62d and has 12 prosecutors per million, what are the different prosecutive and investigative issues that justify comparatively fewer attorneys than elsewhere?

Mr. MOSCATO. Again, sir, I have been through the general ones. If you would like us to give you a more detailed——

Mr. CONDIT. I would like you to be real specific if you can.

Mr. MOSCATO. On the northern district, today I can't. I can give it to you in a written response, sir, if I may.

Mr. CONDIT. Absolutely.

[The information is contained in the appendixes.]

Mr. CONDIT. Well, were you advised in advance that we would be asking these questions?

Mr. MOSCATO. I was advised in advance of the general nature of the questions and that you would be covering some of the chart material. I wasn't advised that you would want a very specific and detailed one on this district.

Mr. CONDIT. I am sure you knew I hailed from California and that I would be asking these questions. Is that not right?

Mr. MOSCATO. Yes, sir.

Mr. CONDIT. Well, I will give you the benefit of the doubt. There is nothing else I can do but do that and let you respond to these in writing. I will submit the series of questions as it relates to what we have been talking about and ask that you submit those.

Mr. MOSCATO. Unless either of you want to add anything.

Mr. RICH. Congressman, one of the primary factors in allocating resources in addition to population, we have indicated a number of them, but in California as distinguishes on the one hand a California and a Wisconsin and some of the other States mentioned in the original TRAC report on page 5, North Carolina, those States on the one hand, and a West Virginia and a Wyoming on the other, these are the primary differences that really come into play when we are doing major prosecutions.

I have been an assistant U.S. attorney since 1971. The last couple of years I have been up here in DC, I have been a first assistant criminal chief and a U.S. attorney.

Mr. CONDIT. Where were you before?

Mr. RICH. In southern West Virginia, but I have been a special assistant in Operation Lost Trust in South Carolina, where we prosecuted 10 percent of the legislature; and I was the attorney general in Missouri, so I am out there working in the field. In West Virginia and Wyoming, for example, which are the subject of this report, the State attorney general has no criminal prosecutorial powers.

In other words, if white collar fraud and public corruption prosecution is going to be done in those States such as Wyoming and West Virginia, it cannot be done by the State attorney general. The legislature of those States have not given them that power.

Mr. CONDIT. In comparison to California and other States which they have?

Mr. RICH. Which have very fine attorney general offices, some very fine career prosecutors.

Mr. CONDIT. Absolutely.

Mr. RICH. In carrying that a step further, sir, in West Virginia we have 55 counties in our two districts, total for the State. Only half of those prosecutors, those county prosecutors are full time.

Mr. CONDIT. Why wouldn't the State of California and other States, then, just remove the law and leave it up to you guys to do it?

Mr. RICH. I can't answer that. I don't know why they do or don't. I would think as you said in your opening statement, they would want to meet the needs of their citizens, and that is what they are doing.

Now, what I was getting at in West Virginia, only half of our prosecutors, county prosecutors are full time. In Wyoming only 2 of their 23 county prosecutors are full time, so as a result, and I have a chart just to show you, sir, on public corruption in West Virginia, southern West Virginia, we could not be doing these kinds of cases if the allocation of assistant U.S. attorneys was based solely on population. For example, on the first page, the case that I had the opportunity to work on, Governor Arch Moore, a three-term Governor, senior national Republican committeeman acquitted in 1976, I worked on that case from 1977 until he was eventually convicted in 1990. That is very labor intensive. That kind of case would not be prosecuted if assistant U.S. attorneys were solely allocated on population because they are so labor intensive we could not do those proactive white collar fraud.

[The chart referred to is contained in the appendixes.]

Mr. RICH. On the next page, the Senate president, different party, prosecuted the same way, historic prosecution, Lost Trust in South Carolina was undercover. Those are usually pretty quick, we can do those pretty quick. Historic public corruption prosecutions take longer. On the third page, another Senate president, a State judge, you can go through this and see, 96 cases, very labor intensive, the vast majority of which are historical in nature, just like the attorney general in Missouri, William Webster, that we just prosecuted.

It took us 33 months to make that case through extensive grand jury use, and those are the kind of cases, sir, unless we allocate our resources where we make up the shortage to meet the needs of the people, like you said in your statement in the real world, that is what comes into play, and that is the difference between a Wyoming and a West Virginia, on one hand, and a California and a North Carolina on the other hand.

Mr. MOSCATO. If I can pick up that point with regard to the colloquy you were having earlier with the TRAC folks, one of you asked about the relative differences in drug abuse cases brought, district by district, and the testimony was to the effect that it was in some way surprising, and the reference was made to Iowa. Again, we have been working over the last decade with local and State law enforcement agencies and much of the drug jurisdiction is dual jurisdiction.

If the local and State prosecutors are making the cases, that might account for a relatively lower percentage of cases brought in the Federal district. Conversely, if they are not, you might see a higher percentage of drug cases where you don't necessarily expect it, even on a population basis.

Mr. CONDIT. I don't want to be argumentative, and I concur with you that population shouldn't be the only criteria. I just want to understand exactly why districts in California are understaffed and why cases are not being prosecuted. For example, would you admit that we in California have a problem with bank and thrift fraud cases?

Mr. MOSCATO. I saw the testimony and the statement, around 46 percent. I would like an opportunity to go back and look. Our own data indicate that fewer than 10 percent of the declinations we make nationwide, at least, are premised on policy, that the bulk or the majority of them are premised upon the state of the case and the provability of it or deficiency with the individual case that is declined, but—and the citation you made was in the 46 percent range, which is of concern, and I plan to go back and look.

Mr. CONDIT. OK. You might want to look at the GAO report on bank and thrift criminal fraud, page 15, where the FBI investigation reveals the statistics and records that we are using. Just one last additional question. I am going to submit a series of these questions to you, Mr. Moscato, in writing, and ask that you respond to them, if you would.

Mr. MOSCATO. I certainly will, sir.

Mr. CONDIT. What do you see as the priority for our national investigative and prosecutive resources. What is our agenda? What is the priority list?

Mr. MOSCATO. Well, I think the Attorney General has sketched out the basics in those five areas, and I think she has also said that it is critical that that national priority be married to the local priorities as they arise out of the community.

I think it is our expectation that while she is setting a national framework, her U.S. attorneys will come back to her as a result of their work with the State and local officials to suggest whatever modifications need to be made in those districts, for instance in a State in which there are a large number of Indian tribes, I think

the priorities are going to be different in terms of Indian gaming and in terms of a higher level of——

Mr. CONDIT. OK, I will give you that, some States have different problems. Can you cite for me the three or four national priorities?

Mr. MOSCATO. Violent crime, major drug networks, white collar crime, civil rights, environmental.

Mr. CONDIT. That has uniformity throughout the country?

Mr. MOSCATO. Again, it is going to vary sometime district to district, but that is the national set of major issues the Attorney General has asserted today.

Mr. CONDIT. OK. Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman. What prompted the TRAC study?

Mr. MOSCATO. Sir, I don't know. That TRAC study, the original one was about 4 years old, I believe, and I don't know what prompted it to begin with.

Mr. THOMAS. What do you think of the study?

Mr. MOSCATO. I think it is an honest attempt to help. I think in its focus on a single axis relationship for the allocation of assistance, I think it overstates the importance of population, and I think what we have tried to say in testimony is population is a factor, population then gets reflected in turn in a variety of other factors that we have got to attempt to reckon with as we make the allocations, and those factors, as we have tried to sketch out the breadth of them, some will be more important in individual allocations than others.

Another thing that we look at sometimes is when the office, when we do office evaluations and evaluators come back and tell us that one part or another of a particular office is working well or not working well. We will pay attention to that. If they are at the limit that might be the first place that gets more.

Mr. THOMAS. The U.S. attorney in Wyoming predictably said that he thought it was too much based on population. I guess you would expect that, and I think he is right, however. What do you think of the GAO's conclusion that Justice does not have a systematic way of assessing the loads?

Mr. MOSCATO. Justice does not have a systematic way of assessing——

Mr. THOMAS. Assessing the complexity of U.S. attorney workloads.

Mr. MOSCATO. We have looked at ways to measure complexity and ways to measure weight, and there have been several attempts over the years. It is an ongoing process for us. Some of the difficulty involved in that is that the factors will shift in different case areas or the case will go away. You can start out with a case with 10 defendants, which might suggest up front that that is going to be a very complex case. It could plead out and disappear on you.

On the other hand, we assume, for instance, in terms of attorney time allocation that white collar fraud cases are going to be very heavily paper intensive and are going to take a relatively higher allocation of assistant U.S. attorney and investigative time.

Mr. THOMAS. But you do have a basic formula and system for doing that and then, of course, give specific attention, but do you have a basic system?

Mr. MOSCATO. The General Accounting Office provided to us their system that they generated out of the study and we agreed that we would use it as another calculated factor in any further allocation because I think it does give us a baseline to look at attorney work hours and caseload.

Mr. THOMAS. Justice has a committee of U.S. attorneys?

Mr. MOSCATO. The Attorney General's Advisory Committee, yes, sir.

Mr. THOMAS. Yes. Do they play a role in this system?

Mr. MOSCATO. In all of the previous allocations they have been the first stop on the review process. They have made their comments, and then from there on it has gone up to the Deputy Attorney General or perhaps to the Attorney General before it is finalized.

Mr. THOMAS. That committee, I presume, represents different kinds of districts?

Mr. MOSCATO. The committee has 15 representatives and the District of Columbia U.S. attorney sits ex officio, so it is a total of 16. They are selected for distribution geographically, distribution between small, medium, and large offices, and to make sure that we accommodate all the interests of the different offices.

Mr. THOMAS. Mr. Cook, what is the system for establishing the number of judges? Or judge districts actually?

Mr. COOK. The number of judges in a particular district?

Mr. THOMAS. No, the number of districts. It is my understanding that for each judicial district there is a U.S. attorney and all the apparatus that goes to support that.

Mr. COOK. Yes.

Mr. THOMAS. There can be more than one judge served by one district attorney's office, right?

Mr. COOK. Oh, absolutely, yes.

Mr. THOMAS. But you talked about judgeships. What is the relationship between that and the U.S. attorney's office?

Mr. COOK. The number of judges is not necessarily based on the number of attorneys in the U.S. attorney's office. In fact, it is based entirely on caseload. As far as the relationship between the two, there isn't any direct relationship.

Mr. THOMAS. Isn't that what you were talking about? You were talking about judgeships, weren't you?

Mr. COOK. Yes, I am talking about judgeships.

Mr. THOMAS. How does that fit into the issue here?

Mr. COOK. It is my understanding that one of the factors that is used by the Department of Justice in making its allocation is the number of judges in a particular location, and so I was asked to provide some information on how that determination is made on the number of judges.

Mr. THOMAS. I see. Judicial districts are generally politically determined, are they not?

Mr. COOK. That is my understanding, yes.

Mr. THOMAS. You understand it very well. But in each judicial district is at least a U.S. attorney?

Mr. COOK. Yes.

Mr. THOMAS. So those numbers may not be done on the basis of a systematic need for U.S. attorneys. There is talk of a new judicial

district in Wyoming. That would then require another U.S. attorney, would it not?

Mr. COOK. I assume that it would, yes, and it would probably require another judge, too. Well, not another judge, but would require a judge——

Mr. THOMAS. I guess all I am trying to do is to say some of them, then, are allocated simply because there is a judicial district and not because you have systematically determined there needs to be another U.S. attorney?

Mr. COOK. Well, I can't address——

Mr. THOMAS. Somehow I am not communicating.

Mr. COOK. I can't address the issue of U.S. attorneys.

Mr. THOMAS. The issue is, if there is a judgeship there is a U.S. attorney, isn't that correct?

Mr. COOK. Yes, and some of the judgeships, I mean in the case of establishing a new district you would establish a new judgeship, and I assume establishing the new district you would establish a new U.S. attorney's office, too.

Mr. THOMAS. That is sort of a current issue. Thank you, Mr. Chairman.

Mr. CONDIT. Thank you, Mr. Thomas. I don't want to harp on this population thing, but for the life of me, I cannot understand how you can have a larger population in inner cities and how you can't equate that and give it at least some substantial weight. I don't like to admit this, you know, but some of the large cities have a higher crime—all levels of crime, unique crime. It appears from what you said to me today that you focus on people who commit crimes on Federal lands, and we have inner cities with all kinds of unique Federal crimes: health care fraud, illegal problems, drugs, et cetera. Common sense just dictates you have a higher level of crime.

For you to dismiss population the way you have is astounding to me. In an April 16, 1993, letter to me, Justice states that the executive office for the U.S. attorneys' allocation process considers population as one of the many relevant factors, however, your testimony today does not list population as a criteria, nor do the allocation worksheets submitted to the subcommittee contain information regarding population.

Would you please clarify? Do you take population into account? If so, exactly how? Be specific on how you do so.

Mr. MOSCATO. We take population into account in the sense that population drives some of the things you were talking about, Congressman. Population does drive the number of crimes, population drives caseload, population as a base will generate the workload that we have to respond to. We take it into account as it is reflected in those things, but—and it was not my intent to say that it was not an important factor. It was our intent in coming here to tell you that there are many factors, and the only issue I think we take with the TRAC study is not that it hasn't done a good job in aligning the importance of population, but it looks at none of those other factors at all, and that, in our view, doesn't give an adequate balance or an adequate response to the specific and individual needs in a particular district.

Let me cite again, there is an assertion in the TRAC testimony that Hawaii, among a number of other districts, has had a significant increase and sort of a comment that it doesn't spring to mind as a major area of crime. It has become one in the last decade as the Asian gangs moved into Hawaii. Hawaii is a major drug transshipment point. We think of it as an island paradise because we are all trained to that, but it is becoming for us a major area, and relative to that increment of crime, it started out as a fairly small office, so the addition hasn't been in absolute terms very big, but overall it does reflect that 300 percent.

We are not throwing population away or saying that it isn't there, but there are a lot of factors, and that is what we have tried to present today.

Mr. CONDIT. Is another factor that Hawaii has a different set of laws, as you mentioned earlier? Does it not do the kinds of things that California does?

Mr. MOSCATO. I don't have a sense that that is an issue in Hawaii, simply that that has been a growing area of violation and problems.

Mr. CONDIT. Do you understand the question? Is the State law different in Hawaii than it is in California? It has been over a decade in California that the inner cities of Los Angeles, inner cities of San Francisco, San Jose, Sacramento, have had Asian gang problems, illegals, et cetera. You didn't have to wait around. It is happening today. It happened yesterday. It happened 1 year ago, 10 years ago, so the point is, it is there and we seem to be getting less representation from you folks than other areas that have very, very small population.

I mean, Hawaii, I am not taking anything away from them, none of us are proud of this fact, by the way. We would rather let this pass from us, but it hasn't, and it is not going to.

Mr. RICH. Congressman, could I make one comment, just on numbers rather than percent. Like I notice on the chart, they noted that northern West Virginia had this great 300 percent growth. What we are really talking about is an increase of nine prosecutors in northern West Virginia between 1980 and 1982. We are looking at an increase of 9 prosecutors, 9 prosecutors, whereas in central California we are looking at over 100.

Mr. CONDIT. What has been the increase of population in West Virginia?

Mr. RICH. I am sure—I am not complaining or taking issue with the fact that California has tremendous growth.

Mr. CONDIT. We have a couple hundred thousand come in every month.

Mr. RICH. We are losing, I imagine we show a negative, but the point is percent increases versus actual bodies, you know. We are looking at 9 versus 107.

Mr. CONDIT. Do you know how illogical your argument sounds?

Mr. RICH. No, sir, not when I know the kind of crime they are prosecuting there with the Hare Krishna fraud movement there and the contract killings and the drug cases that the State and locals can't do, no, sir it doesn't.

Mr. CONDIT. Why haven't you encouraged the States, then, to be uniform in their approach and pick up the slack?

Mr. RICH. I don't know what influence U.S. attorneys can have with State legislatures.

Mr. CONDIT. Good point, good point. Another significant factor listed in your April 16 letter was criminal patterns and trends. However, in the allocation worksheets provided to the subcommittee, it is not clear how such patterns are measured and taken into account.

In addition, your statement today does not include criminal patterns or trends although there are now the categories, "investigative agency initiatives" and "State and local enforcement initiatives." Would you please explain how you assess Federal criminal trends and how they are included in this process?

Mr. MOSCATO. Well, we can look at—in both drug enforcement and in immigration enforcement we can see the pattern and trend developing from Texas across the Southwest into California, and we can see the allocation of resources in both the Immigration Service and the Drug Enforcement Administration as those problems have grown over the last decade, and we followed into them with resources associated with that.

Mr. CONDIT. You mean because of the patterns of illegal immigration and drugs filtering over the border to the south you have increased personnel?

Mr. MOSCATO. As the investigative agencies have, as the patterns have indicated a continuing growth, we have moved more resources into those areas.

Mr. CONDIT. Percentagewise why does that not look real in relationship to western Virginia?

Mr. MOSCATO. I thought it—well, percentagewise it did not. I thought it did in actual terms. We also, for instance, in financial institution fraud have seen allocations of resources into particular districts where there were higher levels of bank failure and S&L failure and where there needed to be a more directed response.

Mr. CONDIT. So you think you have responded to the intent of Congress when resources are dedicated to particular problems such as financial institution fraud?

Mr. MOSCATO. Yes, and it has been our intent to do that. We can always argue, not even argue, we can always discuss whether we have hit it perfectly or whether we need to shift.

Mr. CONDIT. Can you be specific on what you really allocated, what additional personnel was provided to financial fraud in particular to California?

Mr. MOSCATO. I am sorry, sir. Overall on financial institution fraud we have 353 assistant U.S. attorneys allocated nationwide.

Mr. CONDIT. So is that possibly one per district?

Mr. MOSCATO. It wasn't—there were 93 districts. I am not certain it was one per district. Were you asking about the specific California allocations?

Mr. CONDIT. Yes, please.

Ms. KAHOE. The central district of California, I know, received 25.

Mr. MOSCATO. We will be happy to provide eastern and southern and northern.

[The information is contained in the appendixes.]

Mr. CONDIT. Health care fraud is estimated to eat up as much as $10 out of every $100 spent for medical care. How do you assess trends in health care fraud and factor those trends into the allocation process?

Mr. MOSCATO. I don't know that we have got a defined trend in health care fraud that we can point to yet. We have had work in a number of pilot districts and affirmative civil enforcement going after health care. We have seen some districts take a lead in that area and be innovative in going out and working on confronting hospitals on their costs. I haven't—I don't know that I can tell you that we have defined a pattern anyplace except that every time we hit it we find it, and we are looking at the potential for a possible significant enhancement in that area.

There is also—let me stop. We are looking at that.

Mr. CONDIT. Can we follow up with that as well if there is any additional or new definition of that in the future?

Mr. MOSCATO. Health care fraud as a pattern? Yes.

Mr. CONDIT. Caseload is another factor which Justice identifies as being taken into account. How do you assess and consider what cases are not being prosecuted that should be prosecuted? We have heard complaints that in the drug areas a lot of minor cases are pursued to keep the statistics up.

Do any of you know of any instance in which U.S. attorneys have prosecuted relatively unimportant cases just to keep the case number up?

Mr. MOSCATO. I know that there are—there is at least one district that is prosecuting relatively minor cases in your home State, Mr. Chairman, in which I believe the U.S. attorney is doing it because the State or local prosecutor is not. The point there is not to keep his numbers up as much as, again, we are trying to marry and bridge between the Federal prosecutor and the State.

Mr. CONDIT. So the State takes—the Federal takes one level of drug cases?

Mr. MOSCATO. The situation is one in which the local prosecutor has not manifested the degree of interest or willingness to prosecute those cases and the Federal prosecutor has. I can cite, I am sorry Mr. Owens isn't here, in the eastern district of New York a similar pattern in which the local prosecutor has made a determination not to prosecute mules and the U.S. attorney's office, in drug cases, and the U.S. attorney's office felt compelled to move into that area as well, not happily I will note.

Mr. CONDIT. Mr. Thomas has a clarification.

Mr. THOMAS. More of a clarification. In the case of Federal reservations such as military or national parks and this and that, who has the enforcement jurisdiction there?

Mr. MOSCATO. I think the tribes have a basic enforcement jurisdiction, but in the end it is Federal jurisdiction.

Mr. THOMAS. Exclusively?

Mr. MOSCATO. Yes.

Mr. THOMAS. And in the case of cities or other places there are other enforcement agencies that have operations there, are there not?

Mr. MOSCATO. That is right.

Mr. THOMAS. Cities, counties, State?

Mr. MOSCATO. Exactly.

Mr. THOMAS. So there is some exclusivity on the Federal reservations?

Mr. MOSCATO. Yes, there is.

Mr. THOMAS. So that space does have some impact. Fifty percent of Wyoming belongs to the Federal Government.

Mr. MOSCATO. That is correct.

Mr. THOMAS. And a good deal of California belongs to the Federal Government, too, as a matter of fact.

Mr. CONDIT. But most of our crime is not committed on Federal land.

Mr. THOMAS. That is what I wanted. Thank you.

Mr. CONDIT. Do you feel comfortable that you have a good handle on setting priorities, and what I mean by that is what you are not prosecuting? I mean, do you have an idea of what you are not doing and do you feel that it is acceptable?

Mr. MOSCATO. That is a hard question, Mr. Chairman. The concern is what is out there that you don't know about or that you haven't seen is something I think that plagues prosecutors at every level. What level of crime are you not reaching, whether it is on the streets or whether it is white collar crime. I don't think there is a prosecutor in the country who wouldn't like more resources so that he or she could get to and address more, and I am sure that the investigative agencies would, in addition, like that, too.

Nevertheless, given what we have got and given the degree of working relationship we have been forging with the State and local law enforcement officials and prosecutors, we have to be satisfied. This is an area that the Attorney General has spoken to, I think, very clearly in terms of directing more and better working relationships with the State and local enforcement agencies.

Mr. CONDIT. OK. I have a series of questions and instead of us going back and forth and guessing, what I would like to do, if I could, submit those to you in writing and ask you to respond to them for the record.

Mr. MOSCATO. Yes, sir.

Mr. CONDIT. I would appreciate that very much. That would be helpful to me and probably would be helpful to you, and my timing is superb in asking you to do that. First of all, let me say I really appreciate you all being here today.

I didn't bring you in here to beat you over the head or anything. This is a new area for me. I represent California, and we look at these numbers and they just don't make sense to me. I appreciate your trying to explain them to me, and what we will do is we will review the testimony today, do a little more work on this, and get back with you after the report comes out and maybe do another round of this. I appreciate it very much. We are trying to be constructive and we appreciate your participation very much.

Mr. MOSCATO. We appreciate the invitation to testify.

Mr. CONDIT. Thank you folks. Thank you.

[Whereupon, at 1:19 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—ADDITIONAL QUESTIONS AND ANSWERS

Gary A. Condit, California, Chairman
Major Owens, New York
Karen Thurman, Florida
Lynn Woolsey, California
Bart Stupak, Michigan

Craig Thomas, Wyoming
Ranking Minority Member
Ileana Ros-Lehtinen, Florida
Stephen Horn, California

ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

Information, Justice, Transportation, and Agriculture
Subcommittee
of the
Committee on Government Operations
B-349-C Rayburn House Office Building
Washington, DC 20515

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October 15, 1993

Mr. David L. Cook
Chief, Statistics Division
Administrative Office of the U.S. Courts
One Columbus Circle, NE.
Washington, D.C. 20544

Dear Mr. Cook:

Thank you very much for your participation in the Subcommittee's hearing on October 14, 1993. Your description of the process for determining the number of Federal judges is helpful to understanding more fully the process for making determinations of staffing of U.S. Attorney Offices. As the Department of Justice testified, its allocation process relies, in part, on the number of Federal judges in a district.

I am sorry that we ran out of time before completing the questioning. However, I would appreciate your response to the following questions:

1. You testified that "much of the Federal courts' caseload is not strictly related to population but instead to government policies, legislation, local events which may generate cases, and the presence of particular industries of companies."

Please provide examples of the types of government policies and other factors that affect caseload and the impact that such policies can have.

2. You have had experience developing a "weighting system" for cases.

Please describe briefly how the Administrative Conference develops the "weights" which are assigned to cases. In addition, based on your experience, do you have suggestions for developing an effective case weighting system?

Again, thank you for your assistance.

Sincerely yours,

Gary A. Condit
Chairman

L. RALPH MECHAM
DIRECTOR

JAMES E. MACKLIN, JR
DEPUTY DIRECTOR

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

DAVID L. COOK
CHIEF, STATISTICS DIVISION
202 273 2240

November 1, 1993

Honorable Gary A. Condit
United States House of Representatives
Chairman, Information, Justice,
Transportation, and Agriculture
Washington, D. C. 20515

Dear Mr. Chairman:

In response to your letter of October 15, 1993, relating to the October 14 hearing on allocation of U.S. attorney positions, I have prepared the enclosed responses to your questions. I hope these responses will be helpful to you and your subcommittee. If you should have questions concerning the responses please give a call at 202-273-2240.

Sincerely,

David L. Cook

Enclosure

RESPONSES TO QUESTIONS FROM
CONGRESSMAN GARY A. CONDIT, CHAIRMAN
INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE
SUBCOMMITTEE

Question: You testified that "much of the Federal courts' caseload is not strictly related to population but instead to government policies, legislation, local events which may generate cases, and the presence of particular industries or companies."

Please provide examples of the types of government policies and other factors that affect caseload and the impact that such policies have.

Answer: Perhaps the most obvious area of Federal courts' workload which is affected by policy is the criminal caseload. Prosecutorial policy changes can have the effect of either increasing the caseload or decreasing it. In mid to late 1970s the policy to divert as many criminal prosecutions to state courts as possible lead to a reduction in the criminal caseload of the courts. More recently, the policy to pursue drug offenders in the Federal system and to pursue weapons violations has lead to a substantial increase in cases. On the civil side, government policy related to repayment of federally insured student loans led to substantial increases in the caseload in the early 1980s. Changes in this policy also led to substantial declines in more recent years. Legislation has similar effects on the caseload. Most recently, the legislation to increase the minimum amount in controversy in diversity of citizenship cases to $50,000 resulted in a drop of nearly 18,000 civil cases in one year.

Question: You have had experience developing a "weighting system" for cases.

Please describe briefly how the Administrative Office develops the "weights" which are assigned to cases. In addition, based on your experience, do you have suggestions for developing an effective case weighting system?

Answer: The Administrative Office and the Judicial Conference use a weighting system developed by the Federal Judicial Center. The weights have been developed on the basis of a time study in which judges record the amount of time they devote to a sample of cases. The information reported in the time study is then used to determine which case types are generally more time consuming and which are less. This information is then translated into a weighting factor which is applied to all cases in a particular class.

Over the years the Federal Judicial Center has used a variety of methods for developing the weighting systems. The most recent involved studying a sample of cases from their filing to their final disposition. The method was a lengthy one because of the time required for some cases to be concluded. It did, however, provide substantially more information that studies of the past. I would recommend this method to any organization contemplating development of a weighting system and having the luxury of time for its final conclusion.

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November 1, 1993

Mr. Tony Moscato
Director
Executive Office for U.S. Attorneys
Main Justice Building, Room 1619
Washington, D.C. 20408

Dear Mr. Moscato:

Tony,

Thank you for your participation in the Subcommittee's hearing, "Are Federal Prosecutors Located Where We Need Them?" As I indicated at the hearing, I have additional questions to which I would appreciate receiving responses:

1. a) As discussed during the hearing, please explain the "different prosecutive and litigative issues" which have led to the staffing patterns in each of the following California districts: the Eastern District; the Central District; and the Northern District. (See pages 42-45 of the hearing transcript.)

b) Please explain why the staffing of these offices is "generally fair and equitable".

2. Table 2 of the testimony presented by the Transactional Records Access Clearinghouse presents data entitled: Ratio of Attorneys per Million Population in 1992. For each of the following districts, please identify the "different prosecutive and litigative issues" which have led to the staffing patterns in the U.S. Attorney's Offices. Also, please explain why these allocations are "generally fair and equitable": Louisiana, Eastern District; Alaska; W. Virginia, Southern District; Nevada; Vermont; Alabama, Southern; Arizona; Hawaii; South Dakota; and Pennsylvania, Eastern.

3. You testified that the U.S. Attorneys work "closely with their state and local counterparts, most notably through the Law Enforcement Coordinating Committees, to determine the manner in which Federal resources can best be brought to bear to address the districts' problems". Would you please explain how these Committees are used to determine the best use of resources?

4. Do you routinely survey the referring Federal agencies (such as the Justice components, the Inspectors General, the U.S. Department of Treasury, the U.S. Customs Service, etc.) to learn what cases are not being prosecuted and how they view their enforcement needs? If so, how is such a survey conducted?

5. I understand that institutions such as insurance companies and banks will identify fraudulent activity and turn over evidence to the U.S. Attorney to pursue a case. What effort do you make to seek private sector input in determing whether or not there are cases that are not prosecuted which should be prosecuted?

6. If a determination is made that a U.S. Attorney's Office is "overstaffed" relative to other offices, how do you shift resources among the offices?

7. The President issued an Executive Order requiring a reduction of 100,000 positions government wide.

a) What effect will this reduction have on the staffing of the offices of the U.S. Attorneys? How will you select the offices in which any reductions will take place?

b) Will any redistribution of resources occur? If so, how will that be implemented?

8. The workload of the U.S. Attorney's Offices is affected by the number of investigators and the cases that they generate.

a) Could you clarify who ultimately decides exactly where FBI and DEA investigators will be assigned? Is it the Attorney General or the Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration?

b) Please explain how these assignments are coordinated with the allocation of assistant U.S. attorneys.

9. There is a wide disparity among the districts in the average caseloads which are handled by the assistant U.S. attorneys. For example, according to data contained in the most recent *Statistical Report, United States Attorney's Office*, with regard to criminal cases, New Jersey is the lowest with 5.5 cases per assistant U.S. attorney and Western Pennsylvania has 33.6. On the civil side, the average caseload ranges from 33.7 in D.C. to 400 in New Jersey.

a) From your perspective, is there an optimum average number of cases per assistant U.S. attorney?

b) If so, what action do you take when there are great disparities in average caseloads?

10. In the 1991 General Accounting Office on attorney allocation (*U.S. Attorneys: Better Models Can Reduce Resource Disparities Among Offices, GAO/GGD-91-39*), GAO reported: "The Department of Justice does not have a systematic way to assess the complexity of U.S. Attorney workloads." In response, the Deaprtment of Justice told both the Judiciary

Committee and the Committee on Government Operations that it would develop a case weighting model. Would you please explain what has been done since issuance of the GAO report to develop such a model and to improve the Department's ability to assess the complexity of cases?

Thank you for your assistance in this matter. I look forward to receiving your responses for the hearing record.

Sincerely yours,

Gary A. Condit
Chairman

U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Washington, D.C. 20530

APR 18 1994

The Honorable Gary A. Condit
Chairman, Subcommittee
on Information, Justice, Transportation, and Agriculture
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your recent letter requesting responses to additional questions posed as a result of the October 14, 1993 hearing on "Are Federal Prosecutors Located Where We Need Them?"

1. **a) As discussed during the hearing, please explain the "different prosecutive and litigative issues" which have led to the staffing patterns in each of the following California districts: the Eastern District; the Central District; and the Northern District. (See pages 42-45 of the hearing transcript.)**

There are 94 United States Attorneys' Offices (USAOs) and approximately 4,100 Assistant United States Attorneys (AUSAs) distributed among those 94 offices. Since 1988, authorizations by Congress have required that resources be dedicated to specific prosecutorial areas such as Asset Forfeiture, Financial Institution Fraud and Organized Crime Drug Enforcement Task Force (OCDETF). There have been no major resource authorization increases since 1991 and no general position increases since the Omnibus Drug Initiative Act of 1988.

During the most recent years in which resource allocations were made, Fiscal Years 1988 through 1991, the Central District of California received the following new allocations:

- Asset Forfeiture/Civil Enforcement: 8 attorneys and 8 support positions;
- Financial Institution Fraud: 30 attorneys and 28 support positions;
- High Intensity Drug Trafficking Area (HIDTA): 15 attorneys no support positions;

- OCDETF (additional resources were provided specifically for assistance in handling non-traditional organized crime groups such as Asian gangs): 13 attorneys and 11 support positions;
- Organized Crime Strike Force: 11 attorneys and 6 support positions;
- Violent Crime: 5 attorneys and 20 support positions;
- Affirmative Civil Enforcement: 2 attorneys and 3 support positions.

The Central District of California is currently allocated 214 attorneys and 220 support positions, representing an 83 percent increase of attorney positions and 68 percent increase of support positions since 1988.

During the same time period, the Northern District of California received the following positions:

- Asset Forfeiture/Civil Enforcement: 3 attorneys and 3 support positions;
- Financial Institution Fraud: 7 attorneys and 10 support positions;
- OCDETF (based on the region's large Asian gang activity): 3 attorneys and 4 support positions;
- Organized Crime Strike Force: 8 attorneys and 5 support positions;
- Violent Crime: 3 attorneys and 3 support positions.

The Northern District of California is currently allocated 85 attorneys and 95 support positions, representing a 47 percent increase of attorney positions and 51 percent increase of support positions since 1988.

The Eastern District of California, upon receiving positions pursuant to the Omnibus Drug Initiative Act of 1988, was given the opportunity to use the additional positions as OCDETF or general positions. The district opted for the more general resource allocations category to meet its prosecution needs. Therefore, since 1988 the district received the following allocations:

- Asset Forfeiture/Civil Forfeiture: 2 attorneys and 2 support positions;
- Financial Institution Fraud: 5 attorneys and 5 support positions;
- OCDETF: 1 attorney and 1 support position;
- Violent Crime: 8 attorneys and 4 support positions.

The Eastern District of California is currently allocated 55 attorneys and 61 support positions, representing a 67 percent increase of attorney positions and 45 percent increase of support positions since 1988.

b) Please explain why the staffing of these offices is "generally fair and equitable."

The Department must consider the needs of all offices when analyzing allocation requests and making recommendations regarding the equitable distribution of attorney resources throughout the United States. To address adequately the unique needs of the offices, the Department has developed criteria to be analyzed when allocating positions. The general criteria include:

- the number of AUSA positions allocated to the district in previous fiscal years;
- the number of District Court, Bankruptcy, Magistrate and active senior judge positions;
- civil and criminal caseloads, including the percent of civil and criminal cases commenced, terminated and pending, case complexity and the number of grand jury hours from the previous Fiscal Year;
- number of trials handled during the last Fiscal Year, indicating those lasting longer than nine days, the number of cases handled per attorney and average attorney workweek;
- district population;
- crime trends;
- number of staffed branch offices and the additional statutory places for holding court, including court-related travel time;
- number of client agents assigned to the district;
- number of federal investigative agents within the district;
- the General Accounting Office (GAO) allocation model; and
- any additional relevant local law enforcement factors, such as whether a state Attorney General has prosecutorial powers. If so, how many attorneys are assigned to the Criminal Division and whether the state Attorney General has the authority to convene a state grand jury, make Title III applications (requests to initiate electronic surveillance) and is empowered with investigative authority similar to Federal investigative authorites.

In addition, specific criteria were utilized for specific substantive allocations, such as Financial Institution Fraud prosecutions. In making Financial Institution Fraud allocations, the Department considered the number of Financial Institution Fraud attorneys on board (their ratio to pending Financial Institution Fraud matters and ratio to other attorneys in the district), Financial Institution Fraud matters pending, Financial Institution Fraud cases filed, Financial Institution Fraud defendants convicted, GAO recommendations, Financial Institution Fraud FBI Special Agents assigned to the district, the presence

of a Financial Institution Fraud task force, direct support for attorneys and indirect support for administrative matters, evaluation reports and reviews by the Special Counsel for Financial Institution Fraud.

The criteria relied upon has produced a generally fair and equitable distribution of attorney resources among the United States Attorneys' offices, realizing that each office could prosecute, defend and pursue more cases if additional resources were available to be allocated among them.

2. Table 2 of the testimony presented by the Transactional Records Access Clearinghouse presents data entitled: Ratio of Attorneys per Million Population in 1992. For each of the following districts, please identify the "different prosecutive and litigative issues" which have led to the staffing patterns in the USAOs. Also, please explain why these allocations are "generally fair and equitable": Louisiana, Eastern District; Alaska; W. Virginia, Southern District; Nevada; Vermont; Alabama, Southern; Arizona; Hawaii; South Dakota; and Pennsylvania, Eastern.

The specific allocations are generally fair and equitable for the reasons set forth in #1.b) above. As noted below, each district has demonstrated specific problems, issues, and needs that support the decisions made on allocations.

The Southern District of Alabama is currently allocated 19 attorney and 25 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- OCDETF: 2 attorneys and 1 support positions;
- Violent Crime: 3 attorneys and 2 support positions.

The District of Alaska is currently allocated 15 attorney and 24 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- Financial Institution Fraud: 2 criminal attorneys and 2 criminal support positions;
- OCDETF: 1 attorney and 1 support positions;
- Violent Crime: 1 attorney and 3 support positions.

The District of Arizona is currently allocated 89 attorney and 90 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 3 attorneys and 3 support positions;
- Financial Institution Fraud: 6 criminal attorneys and 7 criminal support positions and 1 civil attorney and 1 civil support positions;
- Violent Crime: 15 attorneys and 9 support positions.

The District of Hawaii is currently allocated 26 attorney and 35 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 2 attorneys and 2 support positions;
- Asset Forfeiture: 1 attorney and 1 support positions;
- OCDETF: 1 attorney and 1 support positions;
- Strike Force: 2 attorneys and 1 support positions;
- Violent Crime: 5 attorneys and 4 support positions.

The Eastern District of Louisiana is currently allocated 49 attorney and 57 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- Financial Institution Fraud: 5 criminal attorneys and 5 criminal support positions;
- Health Care Fraud: 1 attorney position;
- OCDETF: 1 attorney and 1 support positions;
- Strike Force: 5 attorneys and 3 support positions;
- Violent Crime: 4 attorneys and 3 support positions.

The District of Nevada is currently allocated 34 attorney and 39 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 2 attorneys and 2 support positions;
- Financial Institution Fraud: 1 attorney and 1 support positions;
- OCDETF: 2 attorneys and 1 support positions;
- Strike Force: 6 attorneys and 3 support positions;
- Violent Crime: 2 attorneys and 3 support positions.

The Eastern District of Pennsylvania is currently allocated 115 attorney and 112 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 3 attorneys and 3 support positions;
- Financial Institution Fraud: 7 criminal attorneys and 8 criminal support positions and 7 civil attorneys and 1 civil support positions;
- Health Care Fraud: 2 attorneys positions;
- OCDETF: 5 attorneys and 7 support positions;
- Securities and Commodities Fraud: 1 attorney and 1 support positions;
- Strike Force: 13 attorneys and 6 support positions;
- Violent Crime: 10 attorneys and 11 support positions.

The District of South Dakota is currently allocated 15 attorney and 20 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- OCDETF: 1 attorney position;
- Violent Crime: 1 attorney and 1 support positions.

The District of Vermont is currently allocated 15 attorney and 22 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- Financial Institution Fraud: 1 criminal attorney and 1 criminal support positions;
- OCDETF: 2 attorneys and 3 support positions;
- Violent Crime: 3 attorneys and 3 support positions.

The Southern District of West Virginia is currently allocated 25 attorney and 31 support positions. Since 1988, the district has received positions in the following areas:

- Asset Forfeiture/Civil Enforcement: 1 attorney and 1 support positions;
- OCDETF: 1 attorney and 1 support positions;
- Violent Crime: 1 attorney and 1 support positions.

While one of several factors, population is not controlling, as different populations and communities feature differing crime trends and specific types of crimes unique to the districts.

3. You testified that the U.S. Attorneys work "closely with their state and local counterparts, most notably through the Law Enforcement Coordinating Committees, to determine the manner in which Federal resources can best be brought to bear to address the districts' problems." Would you please explain how these Committees are used to determine the best use of resources?

United States Attorneys (USAs) recognize that cooperation and coordination of efforts within the law enforcement community are key to successful investigations and prosecutions and the Law Enforcement Coordinating Committees (LECCs) exist in each judicial district under the sponsorship of the USA and his/her state counterparts, which bring together representatives of Federal, state, and local law enforcement agencies and prosecutors.

One function of these committees is to highlight the chief law enforcement problems of the various districts and explore ways to cooperate at all levels in meeting those needs. The interaction within the LECC provides direct information to the USAs to allow the preparation of comprehensive law enforcement plans for each district, which are updated every few years. The plans address the use of available resources to meet the law enforcement priorities set by the Attorney General, and, in particular, to address the unique law enforcement problems and priorities of each district. The LECCs also channel information to allow flexible responses to the changing law enforcement needs of each district and periodic and immediate reassessments of commitment of resources. They also allow the leverage of resources by encouraging maximum Federal, state, and local cooperation and enable us to better determine responses to criminal trends.

The LECCs have also been critical in developing actual joint operations that have substantially improved the ability of the criminal justice system to investigate and prosecute cases involving serious and violent crime. In addition to providing training, another method employed by the LECCs to develop these joint investigations has been the formation of task forces and subcommittees.

4. Do you routinely survey the referring Federal agencies (such as the Justice components, the Inspectors General, the U.S. Department of Treasury, the U.S. Customs Service, etc.) to learn what cases are not being prosecuted and how they view their enforcement needs? If so, how is such a survey conducted?

As part of the allocation and budget processes of the USAOs, other Federal agencies are surveyed annually by EOUSA to provide input on the distribution of prosecution resources and the areas where additional resources are needed in the USAOs based on the client agencies' resources, pending legislative changes, and actual and estimated numbers of case referrals.

5. I understand that institutions such as insurance companies and banks will identify fraudulent activity and turn over evidence to the U.S. Attorney to pursue a case. What effort do you make to seek private sector input in determining whether or not there are cases that are not prosecuted which should be prosecuted?

United States Attorneys' offices periodically receive reports of fraudulent activity from financial institutions and insurance companies. However, the USAO is a prosecuting entity, rather than an investigative agency. When the USAOs received reports of such activity, they immediately refer such information to the appropriate Federal investigative agency for proper action. In the case of insurance and bank fraud, the investigating agency is most often the Federal Bureau of Investigation (FBI). Procedures have been in place for some time for financial institutions to make criminal referrals to the appropriate investigative agency via standardized criminal bank fraud reporting forms.

The multi-district, multi-agency National Insurance Fraud Working Group has also developed a referral form that is used by state insurance agencies, as well as the private sector to make referrals to the appropriate Federal investigative agencies. In addition, district level Working Groups in the area of health care fraud and insurance fraud sometimes include private sector representation. An example of this kind of effort may be found in the Eastern District of Pennsylvania, where members of the United States Attorney's office meet monthly with representatives of the local insurance industry to discuss common issues associated with the detection and prevention of insurance fraud. This Working Group, and others like it, is used as a vehicle to solicit input from the private sector as to potential areas of fraud that exist within a district.

6. If a determination is made that a U.S. Attorney's office is "overstaffed" relative to other offices, how do you shift resources among the offices?

All offices have extensive workloads and increasing responsibilities as new Federal criminal statutes are enacted. At the present time, none of the USAOs are overstaffed. In a relative sense, however, resources allocated to specific districts may be shifted, either temporarily or permanently, to other districts if retirements or resignations create vacancies in those dedicated positions and the documented need for the positions is deemed greater in other districts. However, due to the anticipated streamlining of the work force, coupled with the increasing Federal criminal responsibilities, it appears unlikely that any of the districts will fail to fully utilize all allocated positions.

Each office is currently losing personnel through attrition. While resources have never been taken away from any particular district, the use of Full-Time Equivalent workyears in conjunction with Full-Time Permanent positions allows the Executive Office to monitor positions that have been allocated for specific reasons. As new resources are made available, after analyzing positions based on the EOUSA's allocation process, districts that under utilize FTE work hours as reported on the USA-5 and USA-5A, or do not have specific needs for which the resources would be allocated, would not receive additional position increases.

7. The President issued an Executive Order requiring a reduction of 100,000 positions governmentwide.

a) What effect will this reduction have on the staffing of the offices of the U.S. Attorneys? How will you select the offices in which any reductions will take place?

As a result of the Executive Order, all offices were directed to reduce personnel by five percent through attrition.

b) Will any redistribution of resources occur? If so, how will that be implemented?

The full implications of the current five percent downsizing in the USAOs have yet to be determined. The effects of the reduction are being re-evaluated on a continuing basis.

8. The workload of the U.S. Attorneys' Offices is affected by the number of investigators and the cases that they generate.

a) Could you clarify who ultimately decides exactly where FBI and DEA investigators will be assigned? Is it the Attorney General or the Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration?

Staffing within the various FBI field offices (including resident agencies and field offices) is determined by the Director of the FBI, in consideration of data from each of the field offices. The Director also considers the results of evaluations and analysis of resource requests conducted by FBI Headquarters. Factors considered by the FBI include national priorities established by the Attorney General, general crime characteristics within the specific field offices, coverage of geographic territories, anticipation of future events (Olympics and other future events), emerging crime trends in specified districts (Asian organized crime, environmental crime, etc.), and the support of local law enforcement agencies (task forces, training, etc.). The FBI has concluded that there is no direct correlation between the assignment of resources and population, other than to the extent there may be a correlation between population and the crimes for which the FBI has investigative jurisdiction. Accordingly, population is not a controlling factor in the FBI analysis.

Similarly, the Administrator of the Drug Enforcement Administration (DEA) determines the Special Agent staffing levels and assignments, based on Field Management Plans, organizational and staffing surveys, and reviews by DEA's Management Analysis Section. Proposed agent reassignments are based on factors such as area drug trafficking patterns; the level of drug trafficking in the area; DEA, state, and local investigative workload in the area; and United States Attorney workload. The DEA also conducts a benefits-to-costs analysis to ensure that financial resources are prudently expended.

b) Please explain how these assignments are coordinated with the allocation of Assistant U.S. Attorneys?

See #4 above. For example, during the allocation of Financial Institution Fraud resources, the Special Counsel For Financial Institution Fraud, the Federal Bureau of Investigation, the Department's Criminal Division and EOUSA worked cooperatively to identify districts with financial institution fraud caseloads which supported the allocation of dedicated prosecutorial and agent personnel. For example, state and local law enforcement officials, individual USAs, and FBI Special-Agents-in-Charge and EOUSA Deputy Directors repeatedly advised the Special Counsel for Financial Institution Fraud of their prosecutorial needs and offered allocation recommendations consistent with their findings.

9. There is a wide disparity among the districts in the average caseloads which are handled by the Assistant U.S. Attorneys. For example, according to data contained in the most recent Statistical Report, United States Attorney's Offices, with regard to criminal cases, New Jersey is the lowest with 5.5 cases per Assistant U.S. Attorney and Western Pennsylvania has 33.6. On the civil side, the average caseload ranges from 33.7 in D.C. to 400 in New Jersey.

Please note that the quoted numbers appear in the Department's "Special Analysis of United States Attorneys' Offices" report, which is not intended to present a comprehensive analysis of district by district attorney workload. A more precise analysis of the USAOs' attorney workload can be found in the EOUSA's Workload Analysis for Fiscal Year 1992 Attorney Workyear Utilization.

The EOUSA report uses a broader base of information than the cited study and includes all significant work elements in determining workloads. It also factors in a more precise measure of attorney time than the cited report. Further:

- EOUSA considered the full range of AUSA activities during the year -- matters (including grand jury investigations and warrants), cases and appeals pending at the beginning of the year plus those received during the year, rather than just the workload pending at the end of the year.

- Matters and cases (i.e., post-indictment activity) rather than just cases were included by EOUSA in determining caseloads since the more sophisticated the crime, the more attorney resources are expended at every stage of the prosecution.

- EOUSA used the USA-5 and USA-5A, which reports actual workyears of attorney time expended during the year, as a divisor in computing workloads rather than just attorneys on board on the last day of the year which does not accurately reflect attorney time over the course of the year. The other report also included supervisors in the computation even though they carry smaller or, in some instances, no caseloads.

- The cited report did not account for attorney time spent on management and administration of criminal and civil matters/cases and appeals. The failure to report AUSA supervisory time resulted in an understating of attorney workload in the report.

According to the EOUSA report, the lowest workload handled by an USAO was 12.36 criminal cases per attorney. The highest average criminal caseload was 70.14 cases per attorney. The lowest civil caseload was 86.32 cases per attorney, and the highest was 658.95 cases per attorney.

a) From your perspective, is there an optimum average number of cases per Assistant U.S. Attorney?

No. The optimum number of cases assigned to an AUSA can and should vary widely based on the prosecutive needs of the USAOs. Although the concept of case weighting is popular in the abstract and has a superficial appearance of practicability based on the idea that a certain kind of case ought to be similar to other cases, the factual development of each case quickly undermines such attempts at quantification. Case assignment and caseload distribution are the most challenging areas of administration and management within a USAO and is hinged on a variety of factors which range from the nature of the case to the experience and abilities of the individual attorneys assigned to them.

While one can develop models for an average caseload, the model has to be tailored to the section of the office (for instance, the General Crimes area) or the types of cases that the attorney handles, taking into account the skill level of that attorney. Agent skills also play an important role -- more attorney time is required when agents are less-experienced; more experienced agents allow attorneys to devote less time to the preparation of the case.

When considering a case weighting system, the complexity has to be balanced with the value to society. One can make general assumptions about types of cases such that a major financial fraud investigation will require extensive document analysis and be labor intensive or that certain debt collection cases will consist primarily of routine and similar steps that can best be handled by support staff under supervision of a lawyer with his/her active intervention only at crucial points. However, a complex major fraud case which appears to be time-consuming may actually be less time intensive than a simple case because of issues leading to trial (i.e., defendants entering plea agreements with the Government in the fraud case versus informant problems or missing witnesses).

In addition, it is not uncommon that several attorneys may be assigned for a year or more on a single major public corruption or organized crime case, whereas another attorney in the same office supported by several paralegals may have a civil caseload of many hundreds of Social Security cases.

The average number of cases per AUSA is only relevant when, in a relative sense, one seeks to measure the professional skills and productivity of an Assistant in relation to his or her peers in the section of the office to which the Assistant is assigned. It is impossible to conclude that there is an optimum number of cases per AUSA since every case handled by an AUSA involves different levels of complexity. Caseload size (in raw numbers) is not indicative of productivity.

The current system features the flexibility necessary to enable United States Attorneys to address the law enforcement needs of their communities.

b) If so, what action do you take when there are great disparities in average caseloads?

Although the average caseloads per district vary periodically, this variance has not been significant enough in the past to warrant wholesale reallocations. In addition, caseloads change as priorities (both local and national) change, sometimes leading to variances in average caseloads in each district from one fiscal year to the next.

Currently, any variances are addressed by each United States Attorney in consideration of the pending caseload and available resources. USAs have never been reluctant to advance forceful arguments for augmented resources as needs have arisen. Also, the Executive Office periodically reviews the utilization of allocated resources in connection with the office evaluation process. The findings of these reviews are reported to the Deputy Attorney General.

Please note that caseload disparity and our efforts in conjunction with an analysis from the GAO is set forth more fully in the response to #10 below.

10. In the 1991 General Accounting Office on attorney allocation (U.S. Attorneys: Better Models Can Reduce Resource Disparities Among Offices, GAO/GGD-91-39), GAO reported: "The Department of Justice does not have a systematic way to assess the complexity of U.S. Attorney workloads." In response, the Department of Justice told both the Judiciary Committee and the Committee on Government Operations that it would develop a case weighting model. Would you please explain what has been done since issuance of the GAO report to develop such a model and to improve the Department's ability to assess the complexity of cases?

As a result of the 1991 GAO report on attorney allocations, EOUSA committed resources to and cooperated with GAO staff in a joint venture to construct a methodology for AUSA allocation based upon workload. The result, created by the GAO statisticians, is a software program which utilizes both the number and types of cases being handled in each USAO and, through use of a sophisticated algorithm, predicts the resources required to successfully handle cases from initiation through resolution. The "GAO allocation model" will be used by the Executive Office as an additional analytical tool should additional position authorizations become available.

The Executive Office has been exploring the development of ways to accurately and objectively assess, or "weight," the importance, as well as the complexity, of individual cases. Toward that end, EOUSA is considering a computer-based program for tracking and accounting for attorney time involved in handling individual civil and criminal cases.

I hope this is responsive to your request. If you have further questions, please contact me on 514-2121, or have a member of your staff contact Brian A. Jackson, Assistant Director of the Evaluation and Review Staff, at 616-6776.

Sincerely,

Anthony C. Moscato
Director

PUBLIC CORRUPTION CONVICTIONS

SOUTHERN DISTRICT OF WEST VIRGINIA

SELECTED FEDERAL PUBLIC OFFICIAL PROSECUTIONS - FISCAL YEARS 1984 TBRU 1993 LRE (ljw)/October 7, 1993

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
STATE GOVERNMENT									
EXECUTIVE BRANCH									
Bradberry, Jerry	Former Director West Virginia Tax Division	18:1623	JFS	JTC	IRS	07/02/90	09/07/90	1 yr. probation; 6 mos. work release	Perjury
Bryan, Elton E.	Former Director West Virginia Lottery	15:78ff 15:78j(b) 18:1341 18:1343 18:1346 18:1623 17 C.F.R. 240.10b-5	CTM/LRE	CHH	FBI/IRS	09/24/93	Pending	Pending	Mail fraud; wire fraud; insider trading; perjury
Leaberry, John F.	Former Campaign Director for former 3-term Governor of State of W.V. (A. Moore)	26:7206(1)	LRE	JTC	IRS	09/21/90	12/06/90	3 yrs. probation; $10,000 fine; public service equivalent to 150 8-hour days	Filing false income tax returns
Margolin, Arnold T.	Former Assistant Treasurer; State of W.V.	15:78j(b) 15:78FF	CTM	JTC	CSI	09/06/90	12/07/90	1 yr. prison; $10,000 fine	False statements in connection with securities transactions
Moore, Arch A., Jr.	Former Three-Term Governor State of W.V. & Senior National Republican Committeeman	18:1341 18:1951 26:7206(1) 18:1503	LRE/JFS/ JMC/NCH/ WAR	Hoff-man	IRS WVDPS FBI	05/08/90	07/10/90	5 yrs.; 10 mos. prison; $170,000 fine	Extortion under color of official right; filing false personal income tax returns; mail fraud; obstruction of justice
Perry, Noah E.	Former Coordinator for West Virginians for Moore Campaign Committee	26:7206(1)	LRE	JTC	IRS	10/30/90	01/18/91	3 yrs. probation; $1,000 fine	Filing false income tax returns

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
LEGISLATIVE BRANCH									
Boettner, John "Si"	Member of W.V. Senate; Former Majority Leader (Kanawha County)	26:7201	MWC/JFS/ NCH	JTC	IRS	08/30/89	12/13/89	5 yrs. probation; 200 days public service	Tax evasion: failure to include money paid on mortgage by beer lobbyist. Had to resign
Bradley, Patricia	Member of W.V. House of Delegates (Hancock County)	26:7207	JFS	CHH	IRS	04/17/90	07/25/90	2 yrs. probation; $1,000 fine	Filing false documents with IRS relative to income received in the form of a free vacation from a lobbyist.
Cain, Robert	Former Adm. Assistant to W.V. Senate President Tonkovich	26:7206(1)	NCH/MWC	JTC	IRS	09/05/89	12/06/89	3 yrs. probation, special condition to pay all taxes, penalties and interest	Filing false income tax return relating to bribe money paid to Senate Pres. Tonkovich
Ellis, William	Legislative Lobbyist	18:1341 18:1503 18:1951 18:1962	JFS/LRE	JTC	IRS	05/17/90 Trial	10/25/90	7 yrs. prison; $50,000 fine	Extortion; racketeering; mail fraud; obstruction of justice
McCormick, Robert	Member of W.V. House of Delegates; candidate for Speaker (Logan County)	26:7206(1)	MWC/NCH	JTC	IRS	12/07/88 Trial	02/08/89	3 yrs. probation $50,000 fine; $900 restitution; $1,647 cost of prosecution	Hobbs Act extortion from foreign doctors for legislation to ease their licensing requirements; tax evasion
Tonkovich, Daniel	Former President of W.V. Senate (Marshall County)	18:1951	MWC/WAR/ NCH	JTC	IRS	09/13/89 Trial Plea	12/14/89	5 years prison; $10,000 fine	Extortion of $5,000 from casino gambling company while Senate President
Torcasio, Anthony T.	Legislative Lobbyist; former Abscam participant	18:1623 18:1951	MWC/JPR	JTC	IRS	03/15/91 Trial	05/15/91	36 mos. prison; $5,000 fine	Aiding & abetting extortion under color of official right by perjury

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Tucker, Larry	President of W.V. Senate (Nicholas County)	18:1951	MWC/JFS/ WAR/NCH	JTC	IRS	09/11/89	12/13/89	6 mos. prison; 5 yrs. probation; $20,000 fine; 250 days public service	Extortion of $10,000 from race track representative. Had to resign his office
Tucker, Larry	Former President of W.V. Senate; (Nicholas County)	26:7206(1) 18:1621 18:1623	JFS/LRE	CHH	IRS	12/07/90 Trial	03/18/91	37 months prison; $45,000 fine	Making false statements to the Grand Jury and U. S. District Court; obstruction of justice; perjury
Vandergrift, John V., Jr.	Legislative Lobbyist	26:7201	NCH	JTC	IRS	01/04/89	03/27/89	6 mos. prison; 5 yrs. probation; ordered to pay back taxes, penalty and interest	Tax evasion based on failure to file for 16 yrs.
Wymer, Bonnie	Legislative Lobbyist	26:7203 (Misdemeanor)	NCH/MWC	JTC	IRS	08/31/89	12/06/89	3 yrs. probation, special condition to pay all taxes, penalties and interest	Failure to file income tax return
JUDICIAL BRANCH									
Grubb, James Ned	Circuit Judge Logan County	18:666 18:1341 18:371 18:1503 18:1512 18:1962	PAB/NCH	CHH	FBI/WVSP	05/06/92 Trial	07/20/92	65 mos. prison; 3 yrs. supervised release; $25,000 fine	Operating his judicial office as a RICO Enterprise, bribery, obstruction of justice, mail fraud
FRAUD AGAINST FEDERAL OR STATE GOVERNMENT BY PUBLIC OFFICIALS									
Altizer, Erman Ray	Federal Mine Inspector	18:1001	LRE/PBS	CHH	DOL/OIG	10/28/92	03/15/93	4 mos. prison; $4,000 fine	False statements to a government agency
Bledsoe, Daniel Jerry	Maintenance Director, Board of Education, Wyoming Co.	18:371	JAK	EVH	WVDPS	08/30/88	10/25/88	6 mos. house arrest; 5 yrs. probation; 400 hours community service; $5,000 fine	Hobbs Act conspiracy and kickback scheme

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Bradford, Robert O.	Board of Education Contractor, Wyoming Co.	18:371	JAK/MWC	EVH	WVDPS	10/24/88	12/20/88	6 mos. prison; 5 yrs. probation; $10,000 fine; restitution	Hobbs Act conspiracy. Payments to County Commissioner to maintain landfill contract
Buzzo, Bill	Chief, Pineville Police Dept. Wyoming Co.	18:1341	RLR	EVH	WV MFCU	03/12/87	05/01/87	6 mos. prison; 2-1/2 yrs. probation; $20,000 fine	False ambulance service billings to State Medicaid/Mail Fraud
Chafin, Donald	Economic Opportunity Commission, Mingo Co.	18:665(a)	JFS/AML	CHH	FBI WVDPS	08/10/88 Trial plea	12/13/88	3 yrs. prison; 5 yrs. probation	Defrauding program of funds
Davis, James E.	Federal Mine Inspector	18:371 18:1623	LRE/PBS	CHH	DOL/OIG	01/22/93 Trial	04/05/93	5 mos. prison; 2 yrs. probation; $3,000 fine	Conspiracy to solicit a gratuity; perjury before a federal grand jury
Goode, Paul R., II	Wyoming County Prosecutor	26:7203	JPR/AML	EVH	IRS	03/30/90 Trial	05/18/90	5 yrs. probation; filing of back taxes; $10,000 fine	Four counts of willful failure to file tax returns
Hinchman, John T.	Federal Mine Inspector	18:201	LRE	CHH	DOL/OIG	04/22/91 Plea	7/22/91	4 mos. home confinement; 3 yrs. probation; $4,000 fine	Five counts of accepting cash for and because of any official act performed
Hoffman, Harold	Charleston Job Corps employee	18:1341 18:1001	LRE/MSF	CHH	DOL/OIG	07/09/86 Trial	09/04/86	5 yrs. probation; $5,000 fine; $6,400 restitution	Submitting false claims to Job Corps
Jacobs, Michael	Executive Director, Region I Planning & Dev. Commission, Mercer Co.	18:1341	MWC/RSG	EVH	WVCSI Postal	02/03/86	04/11/86	6 mos. prison; 4-1/2 yrs. probstion; $1,000 fine; $18,000 restitution	Fraudulent expense accounts
Lester, Wanda	Wyoming Co. Commissioner; Board of Education	18:371 26:7206(1)	JAK/JPR	EVH	WVDPS	04/21/89	06/16/89	18 mos. prison; 5 yrs. probation; $24,400 fine	Hobbs Act conspiracy and tax evasion; kickback scheme

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Lewis, Melissa	U.S. Dept. of Labor Claims Examiner	18:287 18:201(g)	LRE	JTC	DOL	02/09/84	03/14/84	5 yrs. probation; $13,500 restitution; 250 days public service	False black lung claims
McFarland, Wm.	U.S. Dept. of Labor Claims Examiner	18:209	LRE	CHH	DOL	09/05/84	10/04/84	6 mos. prison; 5 yrs. supervised probation; $3,500 civil judgment	False black lung claims
McPeak, Joseph	Mayor; Keystone McDowell Co.	18:1341	MWC/DAF	CHH	WVCSI	07/30/86	09/10/86	3 yrs. probation; $1,000 fine; $5,250 restitution	Kickbacks to Democ. Gubernatorial Campaign from state funds
Massey, James B.	Federal Mine Inspector	18:201	LRE	CHH	DOL	09/03/91 Plea	11/07/91	3 yrs. probation; $20,000 fine	Public official accepting illegal payments
Millage, Joyce	Fiscal Officer, W. Va. State College	18:371	RSO	JTC	DOL	1985	1985	6 mos. prison; 5 yrs. probation; $40,584 restitution; 150 days public service	False student loan claims to government
Norris, Donald	Huntington Police Chief	26:7206(1)	JFS	RJS	IRS	05/21/90	07/16/90	8 mos. prison; 1 yr. supervised release	Six counts of willful failure to file tax returns
Ray, Jerry	Deputy Sheriff McDowell Co.	18:1341	DAF/WAR/ MWC	CHH	Postal WVDPS	05/18/84 Trial	11/17/84	3 yrs. probation; $1,554 restitution	Fraudulent 55/55 report to get federal funds
Sayre, Truman	Federal Bankruptcy Court Trustee	18:153	MMF	EVH	FBI	07/13/92	11/16/92	3 yrs. probation; $14,244 restitution	Fraudulent embezzlement by a trustee
Scott, John	U.S. Dept. of Labor Claims Examiner	18:286 18:1623	LRE	JTC	DOL	02/09/84	03/13/84	5 yrs. prison; 150 days public service; $53,000 restitution	False black lung claims

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Smith, Carl A.	Manager, Charleston HUD Office	18:201 18:1010 18:1623 26:7206(1)	MSF/MWC	JTC	FBI/IRS Charleston Police Dept.	06/12/91 Trial	09/09/91	54 mo's. prison; $60,000 restitution; $5,000 fine; $12,500 pros. costs	Bribery of a public official; making false statements to HUD Dept.; filing false income tax returns; perjury before a grand jury
Smith, Mark A.	Development & Management Coordinator, Charleston Housing Auth.	18:1001	MSF/JPR	JTC	CPD	08/09/89 Trial	11/08/89	3 yrs. probation; $1,000 fine; 800 hrs. public service	Use of False Document
Sparks, Everett	Deputy Sheriff McDowell Co.	18:1341	DAF/WAR/MWC	CHH	Postal WVDPS	05/18/84 Trial	11/17/84	3 yrs. probation; $1,046 restitution	Fraudulent 55/55 report to get federal funds
Vinson, Frank	Executive Director, Kanawha Housing and Redevelopment Authority, HUD	18:201(g)	MSF/JPR	JTC	CPD	11/06/89	03/30/90	18 mos. prison; $5,000 fine	Receiving unlawful payments, illegal use of an eavesdropping device, grand jury perjury
Workman, Edward	U.S. Dept. of Labor Claims Examiner	18:201(g)	LRE	CHH	DOL	02/06/84	03/05/84	6 mos. prison; 5 yrs. probation; $8,500 restitution	False black lung claims
OTHER PUBLIC CORRUPTION CRIMES									
BOONE COUNTY									
Peaton, Glenn	MSHA Inspector	18:201(g)	RSG/AML	CHH	DOL/OIG/FBI	12/09/86	01/13/87	5 mos. prison; 3 yrs. probation; $300 restitution	Accepting bribes from coal company operators
Price, Clarence, Jr.	Chief Deputy Sheriff	18:371 7:2024(b)	LRE/RLR	JTC	DOA/OIG	10/14/88	01/23/89	5 yrs. probation; $7,500 fine	Conspiracy and unlawful trafficking in food stamps

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Protan, Johnny	Former Sheriff	18:1702 (Misdemeanor)	LRE	JDH	Postal	06/21/84	06/21/84	6 mos. probation; $100 fine; 20 hrs. per wk. public service	Submission of sheriff election filing forms in a backdated postal cancellation envelope
FAYETTE COUNTY									
Bell, Thomas M.	Former Legislator & Former Fayette County Sheriff	18:1956 31:5324	MSF/KDA	EVH	IRS/WVSP	06/23/92	09/17/92	4 yrs., 2 mos. prison; $5,000 fine	Money laundering; structuring transactions to avoid IRS reporting requirements
Edwards, G. Matt	County Schools Superintendent	21:844(a) (Misdemeanor)	WAR/DAF	EVH	FBI & County Deputy Sheriffs	07/18/86	08/07/86	4 mos. prison; 2 yrs. probation; $5,000 fine; 240 hrs. public service	Possession of the marihuana distributed by Sheriff Tony. Had to resign
Elkins, Max A.	Assistant Sheriff	18:1623	WAR/DAF	EVH	FBI & County Deputy Sheriffs	05/20/86	07/02/86	3 yrs. probation; $2,500 fine; 720 hrs. public service	Grand jury perjury re: investigation of Sheriff Tony Had to resign
Melvin, Martha	Executive Director; Fayette County Commission on the Aging	18:1341	WJP/PBS	EVH	WVSP	07/30/92 Plea	09/24/92	12 mos. jail; $39,797.95 restitution; $3,000 fine	Mail fraud
Tony, C. Adam	Sheriff	21:841(a)(1)	WAR/DAF	EVH	FBI & County Deputy Sheriffs	05/20/86	07/02/86	5 mos. prison; 3 yrs. probation; $5,000 fine; 720 hrs. public service	Distribution of one ounce of marihuana from County Evidence Locker. Had to resign
KANAWHA COUNTY									
Adkins, Donald Ray	Kanawha County Corrections Officer	18:242	CTH/KDA	CHH	FBI	11/05/91 Trial	01/07/92	12 mos. prison	Civil Rights violation

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Berkley, William	City of Chas. Sanitation Dept. employee	21:846	JAK	CHH	OCDETF FBI/CPD	03/11/86	06/05/86	6 mos. prison; 3 yrs. probation	Cocaine conspiracy
Evans, Paul	Mayor, Handley, W.Va.	18:1341	NCH/HOC	JTC	FBI	02/18/93	05/12/93	18 mos. prison; 3 yrs. probation; $6,567 restitution	Obtaining city funds by fraud
Jordan, George	Director of Camp Carver for State of W.Va.	21:846	HPS	CHH	OCDETF	02/02/88	04/07/88	4 yrs. probation	Cocaine conspiracy
Melton, Howard M., III	Charleston Police Officer	21:844(a) (Misdemeanor)	LRE	CHH	CPD	06/06/88	08/01/88	30 days prison; 3 yrs. probation	Cocaine possession; resigned prior to plea
Oglesby, Sam	Former State of Va. Probation Officer	21:841(a)(1)	AML	JTC	CPD	08/09/88	10/20/88	18 mos. prison; 5 yrs. probation	Cocaine distribution
Phillips, Levi	State PEIB Claims Supervisor; W.Va. House of Delegates Candidate	21:846	AML	JTC	CPD	07/05/88	10/20/88	6 mos. prison; 5 yrs. probation	Cocaine conspiracy
Rosrk, James E. ("Mike")	Charleston Mayor/Former Kanawha Co. Prosecuting Atty., AUSA and DOJ Strike Force Attorney	21:844(a) (Misdemeanor)	WAR/NCH JFS	Hoff-man	OCDETF CPD	11/17/87 Trial Plea	01/14/88	179 days prison; 3 yrs. probation; $5,000 fine	Six offenses of counts possession of cocaine while Kanawha County Prosecuting Atty. and Mayor. Had to resign
LOGAN COUNTY									
Adams, Oval	Sheriff	18:371	PAB/NCH	JTC	FBI/WVSP	02/27/92	06/16/92	6 mos. prison; 2 yrs. supervised release; $1,000 fine	Interstate transportation of stolen property
Anderson, William	W.Va. House of Delegates Member	State Election Violations	PAB/NCH	CEK	FBI	10/29/92	10/29/92	$60,000 fine	State Election Violations

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Ferrell, Joe C.	W.Va. House of Delegates Member	State Election Violations	PAB/NCH	CEK	FBI	10/29/92	10/29/92	$174,000 fine	State Election Violations
Godby, Tom	Logan County Assessor	State Election Violations	PAB/NCH	CEK	FBI	10/29/92	10/29/92	$25,000 fine	State Election Violations
Harcum, Russell	Deputy Sheriff	18:1341	MMF/PAB	CHH	FBI	10/07/92 Trial	02/01/93	15 mos. prison; $25,800 fine	Mail fraud
Tomblin, Earl	Former Sheriff	18:666	PAB/NCH	CHH	FBI/WVSP	02/27/92	09/02/92	15 mos. prison; $10,000 fine to U.S.; $22,000 restitution to State of WV	Bribery
Siaa, Bob	Assessor's office Employee	21:841(a)(1)	PAB	JTC	FBI/WVSP	04/12/92	06/18/92	3 yrs. probation	Cocaine distribution
McDOWELL COUNTY									
Belcher, Clark	Sheriff	18:1952(a)(3) 18:371	MWC/DAF	CHH	Postal WVDPS	02/01/84 Trial Plea	04/13/84	8 yrs. prison; $15,000 fine	Extortion from gambling operations
Hunt, David	County Magistrate	21:846/843	MWC/DAF	EVH	Postal WVDPS	05/06/85	07/01/85	6 yrs. prison; $25,000 fine	Sale of cocaine
Scott, T. J.	County Commissioner	21:844(a) (Misdemeanor)	MWC/DAF	CHH	Postal WVDPS	Late 1983	Late 1983	Probation	Possession of marihuana
Wolfe, Harold	Chief Field Deputy Sheriff	18:1952(a)(3) 18:371	MWC/DAF	CHH	Postal WVDPS	02/01/84 Trial Plea	04/13/84	10 yrs. prison; $30,000 fine	Extortion from gambling operations
MERCER COUNTY									
LaPradd, Lena	Housing Mgr., Public Housing (Mercer County)	18:371 18:1001	JPR	EVH	FBI	10/10/90	02/04/91	3 yrs. prison; $14,983 restitution	False statements

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
MINGO COUNTY									
Dillon, Freda	Director, Elderly Affairs, Employment Opportunity Commission	18:371 18:1341	JFS	CHH	FBI WVDPS	02/08/88	04/18/88	3 yrs. prison; restitution	Arson conspiracy; mail fraud
Hamrick, Larry	President of Board of Education and Executive Director of Economic Opportunity Commission	21:846 18:1903 18:371	JFS	CHH	FBI WVDPS IRS	02/09/88	04/18/88	12 yrs. prison; $50,000 restitution	Drug conspiracy; obstruction of justice for fixing jury; diverting poverty funds to Democrat Party candidates
Hensley, Clinton	Civil Service Commission	18:371	JFS	CHH	FBI WVDPS IRS	03/09/87	04/13/87	5 yrs. probation; $5,000 fine	Jury tampering conspiracy as foreman in state drug trial
Hilbert, Eddie	Sheriff, Mingo County	18:371 18:1341	JFS	CHH	FBI WVDPS IRS	04/18/88	06/13/88	20 yrs. prison; $20,000 fine; costs of prosecution	RICO Conspiracy (marihuana); mail fraud
Manley, Carroll	Former Meigs County, Ohio Deputy Sheriff	21:846 21:841(a)(1)	JFS/JKB	CHH	FBI WVDPS	06/19/87 Trial	08/24/87	5 yrs. prison; $1,000 fine	Drug conspiracy
Meade, Rhonda	Former Secretary Pros. Attorney's Office	18:371	JFS	CHH	FBI WVDPS IRS	03/10/87	04/13/87	3 yrs. probation; $1,000 fine; 200 hours public service	Providing law enforcement information to Preece's drug conspiracy members
Mullins, Glenn	Police Captain, Kermit	21:846 21:841(a)(1) 26:7206	JFS	CHH	FBI WVDPS IRS	10/23/86	01/09/87	5 yrs. prison	Drug conspiracy (pharmaceutical drugs, marihuana and cocaine); tax evasion
Owens, Johnny	Sheriff; County Democratic Party Chairman	18:371 26:7206(1)	JFS	CHH	FBI WVDPS IRS	02/08/88	04/18/88	14 yrs. prison; $10,000 fine	Hobbs conspiracy; tax evasion

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Phillips, Kenneth	Deputy Sheriff Pike Co., KY	21:841(a)(1)	JFS	CHH	FBI WVDPS IRS	02/08/88	04/18/88	6 mos. prison; 18 mos. probation	Marihuana distribution
Preece, Brenda	Head Start Program employee	18:841(a)(1) 21:846 26:7201	JFS	CHH	FBI WVDPS IRS	10/14/86	01/09/87	11 yrs. prison	Drug conspiracy (pharmaceutical drugs and marihuana); tax evasion
Preece, Mary	Head Start Program employee	18:371 26:7206(1)	JFS	CHH	FBI WVDPS IRS	10/08/86	01/09/87	15 yrs. prison; $10,000 fine	Drug conspiracy (pharmaceutical drugs and marihuana); tax evasion
Preece, Wilburn	Fire Chief, Kermit	18:371 26:7206(1)	JFS	CHH	FBI WVDPS IRS	10/08/86	01/09/87	10 yrs. prison; $5,000 fine	Drug conspiracy (pharmaceutical drugs and marihuana); tax evasion
Ramey, David	Police Chief, Kermit	21:846 21:841(a)(1) 26:7206(1)	JFS/JAK	CHH	FBI WVDPS IRS	06/17/87 Trial	07/13/87	15 yrs. prison; $115,000 fine; $1,150 special assessment	Marihuana conspiracy; tax evasion
Ramey, Deborah	City Council, Kermit	21:846 21:841(a)(1) 26:7206(1)	JFS/JAK	CHH	FBI WVDPS IRS	06/17/87 Trial	07/13/87	10 years prison; $105,000 fine; $1,150 special assessment	Marihuana conspiracy; tax evasion
Runyon, Rastie	County Commissioner	26:7201	JFS	CHH	FBI WVDPS IRS	02/08/88	04/18/88	14 yrs. prison; $10,000 fine	Tax evasion
Sammons, B. I.	Deputy Sheriff	21:846	JFS	CHH	FBI WVDPS IRS	02/09/88	04/18/88	2 yrs. prison	Marihuana conspiracy
MONROE COUNTY									
Jones, Grover	Former Prosecuting Attorney	18:1341	NCH/CTM WAR/RSG	EVH	Postal WVDPS	06/18/87 Trial	07/30/87	15 yrs. prison; 5 yrs. probation; $5,000 fine	Mail Fraud: Arson for Profit

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
NICHOLAS COUNTY									
Dillon, Lloyd	Deputy Sheriff	18:1341	NCH	JTC	FBI	01/27/86	03/03/86	6 mos. prison; 5 yrs. probation; $13,043 restitution; 250 days public ser.	Arson of Bar
Johnson, James	Sheriff	18:1341	NCH	EVH	FBI	10/24/86	03/03/86	3 mos. prison; 4-3/4 yrs. probation; $5,000 fine; $13,043 restitution; 1710 hrs. public ser.	Arson of Bar
SUMMERS COUNTY									
Cobb, Thomas Edward	Patrolman, Hinton Police Department	18:3	CTM/DOJ Civil Rights	EVH	FBI	11/28/90	01/28/91	4 mos. prison; $1,000 fine	Accessory after the fact to a civil rights violation
Hatcher, Ronald Bradley	Chief Deputy, Summers County Sheriff's Dept.	18:242 18:1512	CTM/DOJ Civil Rights	EVH	FBI	03/23/89	07/23/89	2 yrs. prison; 4 yrs. probation; $2,000 fine	Civil rights violations; conspiracy; obstruction of justice
Keaton, Larry Dale	Chief, Hinton Police Department	18:242 18:1512	CTM/DOJ Civil Rights	EVH	FBI	03/23/89	07/07/89	2 yrs. prison; 4 yrs. probation; $2,000 fine	Civil rights violations; conspiracy; obstruction of justice
Sears, Howard Steven	Deputy, Summers County Sheriff's Department	18:242 18:1512	CTM/DOJ Civil Rights	EVH	FBI	03/23/89	06/23/89	1 yr. prison; 2 yrs. probation; $1,000 fine	Civil rights violations; conspiracy; obstruction of justice
WAYNE COUNTY									
Huff, Robert Norville	Wayne County Probation Officer	18:242	JFS	RJS	FBI	04/28/92	07/13/92	20 mos. prison	Violation of civil rights
Ramey, James (Jr., III)	Mayor, Wayne	26:7206(1)	JFS	CHH	FBI WVDPS IRS	03/11/87	04/13/87	2 yrs. prison; $1,000 fine	Tax evasion

DEFENDANT	POSITION	OFFENSE	AUSA	JUDGE	AGENCY	CONVICTED	SENTENCED	SENTENCE	DESCRIPTION OF OFFENSE
Steele, Terry III	Wayne County Deputy Sheriff	18:242	SBB	RJS	FBI	11/19/91	01/17/92	3 mos. prison; $1,500 fine	Violation of civil rights

NOTES:

1. All convictions are by guilty pleas unless otherwise noted:
   a. "Trial" for guilty verdicts by jury.
   b. "Trial plea" for guilty pleas during a jury trial.

2. Convictions are for felonies unless designated as misdemeanors.

3. Legend:
   AUSA - Assistant United States Attorney/United States Attorney who worked on the case
   CPD - Charleston (W.Va.) Police Department
   DOL - U. S. Department of Labor investigators
   OCDETF - Organized Crime Drug Enforcement Task Force of federal, state, county and local law enforcement officers
   WVCSI - West Virginia Commission on Special Investigations (old PPPC)
   WVDPS - West Virginia Department of Public Safety (State Police)
   WVMFCU - West Virginia Medical Fraud Claims Unit
   USPO - U. S. Probation Department

SUMMARY TOTAL: Individual convictions: 96

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